

Irish Airsoft Association

IAA Position on Legislative Changes
27th January 2009

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Preface

The Miscellaneous Provisions Bill 2009 is expected to introduce specific legislation regarding Airsoft devices. This document serves as an additional reinforcement of the IAAs position on several aspects of legislation with regard to Airsoft in Ireland. It is the belief of the IAA that fair and balanced legislation with regard to Airsoft devices and their proper import, sale and use is essential to the furtherance of the Airsoft sport and industry, and the ability of the Gardai to properly and consistently regulate the use of said devices.

The Irish Airsoft Association has been in consultation with the Department of Justice for almost a year, especially during the run-up to the drafting of the Miscellaneous Provisions Bill. The Irish Airsoft Association represents the interests of all players, retailers and venue operators who choose to adhere to the code of conduct as laid down.

Core to the mission of the IAA is the preservation of Airsoft as a sport, hobby and collector's interest in Ireland. We believe that engagement with the proper authorities, along with engagement with the Airsoft industry and community at all levels is key to this.

During 2008, the primary missions and achievements of the IAA have included:

- Publishing of a Code of Conduct for Airsoft players and device owners.
- Publishing and enforcement of Retailer and Venue guidelines.
- Engagement with the proper authorities to ensure compliance with legislation, and the safeguarding of the sport through engagement with the Department of Justice on the Miscellaneous Provisions Bill.
- Public relations work with RTE, The Irish Times, Metro Eireann and several other newspapers and media outlets.
- Community work such as the organisation of charity games and other charity events, which have raised thousands of euro for children's charities.

During 2009, the IAA hopes to build on what it has done by continuing to engage with government departments and ministers, media outlets and prominent members of the community such as club and team organisers. We have also recently extended our remit to Northern Ireland, and will be working with our northern counterparts to affiliate and engage with the community and industry in Northern Ireland, as part of a cross-border initiative to further the sport on the entire island of Ireland.

The Department of Justice has raised several areas they wish to discuss with the Airsoft community. The IAA, as well as meeting in person with the Department of Justice, is with this document publicising its positions and reasoning behind same, for the perusal of the public. We are accountable to the community, and thus are forthright about our position and open to scrutiny and input from all parties.

Import

At present, there are no import controls on Airsoft equipment, save that they must be compliant with legislation. This primarily involves the muzzle power level being less than one joule.

Current Issues

At present, we have observed a backlog of Airsoft equipment being stopped in customs. This has included a lot of legitimately seized items, such as AEGs over the legal limit or genuine firearms accessories. However, it has also included equipment and devices that clearly do not fall under the remit of restricted items. This has included such items as tactical vests, uniforms and replica 40mm 'Grenade Launchers'.

These items are not capable of being used in an offensive manner, and are being held for many weeks or months by customs or Garda Ballistics.

The IAA has also received reports from its retailer affiliates that shipments of equipment are being held in customs at their expense, with no apparent effort to determine legality or forward.

The IAA has offered its help and support in determining ways of optimising the process of customs clearance. It is in the best interests of customs, the Gardai and the Airsoft community that as little time as possible is spent in determining if a device is safe for import, while still ensuring that accurate and correct determination takes place.

IAA Proposals

The IAA has previously offered training in the correct chronographing of airsoft devices, to either customs or the Gardai. The IAA re-iterates this promise. Progress with contacting customs at the various ingress points for packages that may contain Airsoft equipment has been slow so far.

The IAA opposes exclusive import licensing for Airsoft equipment. We favour an approach that ensures that importers, be they businesses or individuals, are not affected in monetary terms by procedures in place currently. If there is to be an import licensing system, we favour a system whereby a retailer or known importer obtains a license to import, which incurs heavy penalties for the importation of illegal devices, but prevents undue time and effort spent on scrutiny of each and every shipment, which may contain hundreds of devices each. We favour meticulous inspection of shipments of devices to individuals in a timely manner.

Sales Control

Licensing and Registration

At present, there are no licensing restrictions in place on Airsoft devices. The IAA believes that licensing of devices or registration of device owners is not a workable solution. The reasons for this are many, and include the following:

1. Airsoft devices are not individually identifiable. They do not have a ballistic signature. They do not have unique serial numbers. They are mass-produced, and several varieties are popular as 'starter' devices, making a trace from a device found to have been used inappropriately back to its owner impossible. Licensing of the device would not help in this regard. For every type of gun, there are several hundred, if not several thousand in the country already, all identical.
2. There is no reason, other than reasons of direct marketing, that a retailer needs to know or retain any details on its customers. Any system which requires a retailer to gather information on every one of their customers is restrictive, and anti-competitive. The querying and updating of any centralised database of device owners would require all retailers to have specialised equipment onsite.
3. Many devices are sold privately by individuals second-hand. Having the device registered to a person by a retailer would prevent this. The time and cost involved in producing a database updatable by any person is immense. Considerations in this regard include private transmission of data, data integrity and security concerns, data retention concerns, and additional concerns with holding information on minors.

The Airsoft community as a whole have spoken out against any solution that requires them to identify or surrender their personal information or information on devices which they own. We have received many communications from members and affiliates outlining the myriad problems with this approach, and we echo their concerns.

Age Limit

The IAA believes that as responsible adults, those over 18 should be permitted to purchase and own Airsoft equipment without need for a license, or any other restriction on sale.

We further are of the position that those between the ages of 16 and 18 must be under adult supervision at the point of sale. It is up to the retailer to determine proof of age in this case. This includes online sales.

Those under the age of 16 should not be permitted to purchase or own Airsoft equipment.

Retailer Standards

The following are the current IAA legal standards for retailers. All retailers affiliated to the IAA have agreed to these standards, and have abided by IAA standards since their introduction in early 2008.

- Retailers must operate to all applicable trading standards within the current Irish Legislation.
- Retailers must not engage in business practice which brings the sport of airsoft into disrepute.
- Retailers must not knowingly supply, make available any airsoft device which contravenes the current Criminal Justice Act 2006 definition of a firearm (the 1 joule limit).
- Retailers must not provide service, mechanical alteration or enhancement to an airsoft device which causes said individual device to exceed the limitations imposed by the Criminal Justice Act 2006.
- Retailers must not supply any device incorporating a pyrotechnic charge as directed by the current legal limitations.
- Retailers must follow the procedure for chronograph testing of devices where those devices are checked.
- Retailers must not sell or make available any airsoft device to persons below 16 years of age.
- Retailers must seek permission of a parent or guardian before making available airsoft devices to persons between 16-18 years.
- Retailers must confirm a person is aged 18 or above before retailing to them as an individual. Identification must be a legitimate photographic ID to wit: Passport, Drivers License, National Age Card, Immigration Card or other government issued ID incorporating a photograph of the individual and their date of birth. (possibly the use of the IAA Membership card supported by a relevant entry in the IAA database)
- Retailers must not make available devices to any person they deem to be likely to use an airsoft device for dangerous or illegal purposes which is to include (but is not limited to) intent to use against animals, children or for use in public or as a means of self protection or criminal purpose.
- Retailers are obliged to ensure that reasonable steps are taken to prevent theft of equipment from storage or retail premises which must include proper lock-up procedures.
- Retailers are obliged to permit random spot inspections of their premises by both the IAA staff and relevant authorities (likely An Garda Síochána).
- Retailers must co-operate in every reasonable respect with the relevant authorities (customs & excise, trading standards, Gardai, Department of Justice etc).
- Retailers must acknowledge that deliberately breaking these guidelines may result in the revocation of affiliation with the IAA.

These guidelines are tried and trusted, and have the approval and support of all IAA-affiliated retailers currently operating. The IAA believes that these rules, if abided by, are sufficient to enable retailers to conduct their business in a fair and unrestricted way. Any retailer that wishes to affiliate with the IAA must abide by these rules. We believe that these serve as an objective barrier to affiliation, and are suitable as legal requirements for retailers. To date, no retailer has ever been refused affiliation.

Replicas Over One Joule

The IAA always has, and always will exist as a body with the primary goal of ensuring the continued enjoyment of Airsoft as a sport, hobby or collector's interest. At the very core of this goal is compliance with the law in all regards and working with the Department of Justice, Garda Siochana, and relevant authorities to facilitate this. We take a very strong view on replicas over the legal limit.

Our retailer guidelines ensure that these devices do not leave the shop. If a faulty device is delivered to a retailer that is overpowered, they are bound by our guidelines to ensure it is compliant with Irish law before it is made available for sale. This occasionally happens due to quality control issues in the factory.

Our venue guidelines ensure that they do not enter the field. IAA-affiliated venues are bound by our regulations to chronograph all devices before allowing them on the site. Many sites also have random spot-checks during the day. Any device found to be overpowered is to be removed from the site.

Brandishing a replica in public should be an offense. We have made recommendations to the Department of Justice with regard to making brandishing devices in public an offense, and are hoping the Miscellaneous Provisions Bill contains legislation in this regard.

We have produced a chronographing guide to ensure the proper testing of devices.

Ensuring that all replicas in the country are compliant with the law is core to the mission of the IAA.

User-Adjustable Parts and Tolerances

There has been some disagreement over the settings of any user-adjustable parts of airsoft devices while measuring the power level of the device with a chronograph.

For example, the 'hop-up' system is user-adjustable, and has the effect of putting 'spin' on the BB as it travels through the barrel. This also slows the BB, reducing muzzle velocity. Some sources claim that devices should be chronographed at a 'game setting', i.e. with hopup partially on.

It is the position of the IAA that if a device is capable of operating at a muzzle velocity of more than one joule at any adjustable setting, that it is over the legal power limit. User-adjustable settings include hop-up units and gas valves in the case of gas-powered devices. The IAA chronographing guide is quite explicit in this regard.

We have also received reports of certain unaffiliated sites and retailers claiming that some devices that shoot a small amount over the legal limit may be allowed, due to a 10% 'tolerance' level with respect to testing. We welcome any clarification in this regard. In the absence of official clarification, we do not believe it is within our remit to make assumptions about tolerances with regard to the legal limit.

Venues

The following are the current IAA regulations for venues. All affiliated venues have agreed to these guidelines, and have been abiding by them since their introduction in early 2008.

- All venues will adhere to the statute laws in the Republic of Ireland governing their operation.
- No venue will engage in practices which bring the airsoft community into disrepute.
- Venues will ensure that each separate zone is clearly marked and that all appropriate signs are in visible and conspicuous locations including the Irish Airsoft Association certificate of affiliation.
- Zones should be enforced according to the IAA Standard and the current accepted rules of engagement.
- Venue operators must ensure that all airsoft devices governed by the current rules adhere to the limitation set in the CJA2006 legislation i.e. No device may be permitted to enter the game zone whose muzzle energy exceeds 1 joule. Chronographing must be done in accordance with the IAA chronographing guide. Venue operators are obliged to ensure that all equipment made available to participants including face masks, AEG's, sidearms, goggles etc are safe to be used.
- Venues must ensure that they have at least 1 member of staff with recognised first aid qualifications on site on any operating day.
- Venue operators must ensure that any participant under the age of 18 has the permission of their parent or guardian to take part in airsoft activities.
- Venues must make themselves available for an annual IAA inspection wherein the venue will be examined for health and safety issues as well as the standard of adherence to these regulations.
- Venue operators are obliged to ensure that all airsoft devices stored on site are secure and adequate measures are taken to prevent theft.
- Venues must refuse entry to participants in possession of restricted or illegal items including, but not limited to Irish Military Uniform or pyrotechnic devices.
- Venues must observe the requirements for safety briefings on site before any participant may be permitted to engage in any activity.
- Venues must ensure that a qualified marshal be present at all times where players are present in the game zone.
- Venues are required to hold third party insurance and to make the details of such available for inspection by the relevant authorities.
- Venues are obliged to permit random spot inspections of their premises by both the IAA staff and relevant authorities.
- Venue operators must co-operate in every reasonable respect with the relevant authorities (customs & excise, trading standards, Gardai, Department of Justice etc).

These guidelines, like our retailer guidelines, are tried and trusted and have been in use for the past year. The IAA believes that these rules are sufficient to ensure that the sport is enjoyed at a site in a safe, legal and responsible manner.

The IAA is also currently considering adding such requirements as a safety and child protection statement, and will publish these when they are finalised.

Inappropriate Use

Illegal Skirmish Sites

The IAA have received worrying reports about certain groups skirmishing illegally on public land, or land owned by Coillte. This is an extremely troubling matter, and the IAA are currently gathering evidence and statements to pass on to the relevant authorities.

It is the opinion of the IAA that any site not operated with a minimum of the IAA venue guidelines in effect is not an appropriate place to play. The IAA would welcome legislation concerning illegal skirmishing on public land without permission, in addition to the current charges of trespass, littering and criminal damage that could be levelled at those responsible.

Brandishing in Public

The IAA presented their proposed change to legislation with regard to brandishing airsoft or replica weapons in public at their meeting in December 2008. To quote from this document:

58.—The following section is substituted for section 27 of the Firearms Act 1964:

27.—(1) A person shall not use or produce a firearm or imitation firearm—

(a) for the purpose of or while resisting the arrest of the person or of another person by a member of the Garda Síochána, or

(b) for the purpose of aiding, or in the course of, the escape or rescue of the person or of another person from lawful custody

The sport of Airsoft employs a multitude of devices with far ranging physical and technical characteristics, defining an “Airsoft device” would be extremely difficult and could have a disadvantageous effect on the goal of bringing the use and availability of imitation firearms into a socially acceptable situation.

The IAA recommends that the CJA be amended to include a specific offence of carrying or brandishing¹ an imitation firearm, in a public place, in a manner that could reasonably cause distress or harm to others.

¹ Oxford: Wave or flourish

The IAA will welcome any legislation that criminalises causing causing distress or alarm by brandishing a device in public.

Use in Crime

The IAA acknowledges that airsoft devices could potentially have been used in the committing of crimes, due to their realistic nature. However, we do not accept that stringent regulation of who can buy airsoft devices will have an effect on statistics in this regard. Additionally, we do not have available statistics or numbers for replica weapons used in crimes, or even a general indication of how often they are used in crime.

Regarding devices used in crime, our position is the following:

- Persons intending to commit a crime will do so regardless of the tools at their disposal.
- It is the intention and the act of the crime that should be assigned the blame and not any object employed in its commission.
- Airsoft devices look like firearms and are likely to be perceived as such by anyone threatened with one.
- There is a potential for someone wielding an Airsoft device to be harmed by armed Gardai responding to a perceived threat.

The IAA are very interested in statistics or data pertaining to Airsoft devices being used in crimes, as it may help us to refine our standards and regulations to make these situations less likely to happen.

Appearance

Airsoft Replicas

Most Airsoft replicas are scale replicas of real firearms currently in use by armed forces around the world. There are subtle differences that can be spotted with the trained eye, but for the most part they are indistinguishable from a distance.

The reasons for this include:

- **Ergonomics** - Real world firearms are designed to be easy to use under extreme physical conditions and billions have been invested in finding the best way to do this. The results of this investment have been a number of familiar and not-so familiar designs seen in modern firearms. During an airsoft game the participants will be exerting themselves quite heavily and while they require the best operation possible for their equipment, they also require the most comfortable application of design.
- **Suspension of Disbelief** - For many, Airsoft is a valid form of 're-enactment', similar in nature to medieval or iron age battle re-enactment. A lot of the appeal of the game is the realism of the uniforms, equipment, and guns used. Airsoft would not be nearly as popular or have such an appeal if the devices were not at least somewhat realistic-looking. Ironically, a lot of the swords, axes, etc. used in medieval battle re-enactment are quite real, and capable of causing serious injury. Conversely, Airsoft devices are quite harmless, and serve for many as a prop or tool in their re-enactment of living history.
- **Collectors** - Many IAA members do not actually play Airsoft. Many have spent several thousand euro on airsoft devices for the simple pleasure of owning them. The devices are as realistic as possible, since they are used for decoration, or for target practice out of sight on private land.

Alternatives

A number of alternatives have been used in other countries to distinguish Airsoft devices from real firearms, instead of concentrating on criminalising the act of misuse.

These measures were well-intentioned, but ultimately are only a deterrent that serve to restrict law-abiding skirmishers or collectors, while facilitating those who wish to use Airsoft devices for nefarious purposes.

Orange Tip

In the USA, an orange tip of a minimum length of 6mm was mandated on all airsoft gear, to distinguish them from real firearms. Almost immediately, it was found that criminals began painting the tips of their real firearms orange, and carrying them around freely. Reports from law enforcement agencies in the USA suggest that most law enforcement officers now ignore orange tips, because of the small chance that the gun is in fact real.

'Two-tone' Painting

The Violent Crime Reduction Act (VCRA) in the UK means that unless someone adheres to arbitrary limitations (such as number of times the person has skirmished in a time period) set out by an association of commercial interests (UKARA), they must use a gun that is painted a bright colour over most of its surface area. This has essentially forced the sport of Airsoft in the UK into a tiny niche. The IAA has consulted with its contacts in Northern Ireland, where the VCRA is in effect, and have heard of the great difficulties in getting into the sport and onerous difficulties in starting a retailer or venue.

'Two-tone' painting is just as reversible as an orange tip, and again, this would facilitate real criminals, while restricting and destroying the sport for legitimate players and collectors. There is movement in Northern Ireland ongoing to attempt to have the Airsoft-related parts of the VCRA removed. It is the opinion of the IAA that any UKARA-like association attempting to mandate who may buy airsoft equipment or devices would be a massive step back for the sport itself, for competition in the industry, and for the freedoms of law-abiding players and collectors.

Summary

The IAA believes that amending the appearance of Airsoft devices in order to make them appear less threatening to the untrained eye ultimately does not work. We understand the reasoning behind legislation in this regard, but it is our position that the criminalisation of brandishing of the devices will be sufficient in discouraging the public from using them in an irresponsible manner. We wish to foster the responsible use of the devices, and ultimately push for the social acceptability of the devices as pieces of sporting or hobbyist equipment.

Conclusions

The IAA has been in existence since 2007, and has progressed to becoming the de-facto regulatory body for the sport in Ireland. The IAA works with the community, and with the relevant authorities such as the Department of Justice, Equality and Law Reform, the Shadow ministers for Sport and Justice, RTE, the Irish Times, other media outlets and our affiliated sites and retailers. We do this to promote and safeguard the safe, legal and responsible use and handling of equipment. Our membership of the Federation of Irish Sports promotes the furtherance of Airsoft as a recognised sport in Ireland. We are seeding cross-border initiatives that transcend old boundaries of culture and background. This is only the Beginning.

We could not do what we do without the support of our affiliated retailers and sites, as well as the support of the Airsoft community, both member and non-member. It is the people who quietly set the example of safe, legal and responsible enjoyment of Airsoft that will truly distinguish the sport as a valid and respected pastime. We would hope that our representations are to the satisfaction of the community, and the satisfaction of the Department of Justice, Equality and Law Reform. We will engage in the process of consultation in an open and honest manner, on the Miscellaneous Provisions Bill and into the future. We are open, honest, accountable, have a proven track record, the support of the community, and are here to stay.