

NATIONAL RIFLE ASSOCIATION

Rules of Shooting, Rule 150

'Non-Standard' .308 Winchester Firearms

OPINION

1. I have been asked by the National Rifle Association ('NRA') to give an opinion in respect of the following questions:-

- (a) Has the NRA committed an offence under the Proof Acts, or acted in breach of the International Proof Convention ('CIP') or is the Association in breach of the duty it owes to its members by:
 - (i) implementing Rule 150 of the Rules of Shooting with an additional concession that is not referred to in the Memorandum¹; or
 - (ii) allowing the use in competitions of rifles with reduced chamber dimensions as described in Rule 150; or
- (b) Does a person commit an offence under the Proof Acts if he submits for proof-testing pursuant to the Memorandum² a firearm

¹ Published by the British Proof Authority in 1999, see the Appendix to this Opinion for further details.

with non-standard dimensions and fails to certify the specific non-standard dimensions required to be certified to the Proof House under the Memorandum.

For the reasons given below I am of the view that the answer to all three questions is 'No'.

2. Background

I have been asked to provide this opinion in an attempt to resolve an issue that has been raised by a member of the NRA regarding a suggested discrepancy between Rule 150 of the NRA Rules of Shooting and the applicable international Rules of Proof³ ('CIP⁴'). The NRA is the national governing body for full bore target rifle shooting in the United Kingdom, in which capacity it publishes the Rules of Shooting. The Trustees of the NRA are anxious to ensure that the Association, and their Rules, are fully compliant with the law.

3. The two British Proof Houses administer a system of proof for firearms as set out in The Gun Barrel Proof Act of 1868 as amended and supplemented by the Gun Barrel Proof Acts of 1950 and 1978 (the "Proof Acts"). Various rules and regulations have been made pursuant to the Proof Acts and the current ones are the Rules, Regulations and Scales Applicable to the Proof of Small Arms 2006 (the "Rules of Proof"). In simple terms a firearm is proved by having two 'proof loads' fired in it and is then examined for signs of failure. A proof load normally produces a minimum of 25% greater pressure than a normal round. If a firearm

² Published by the British Proof Authority in 1999, see the Appendix to this Opinion for further details.

³ See Appendix for the wording of the Rules and the technical details.

⁴ The UK is a signatory along with 10 other EU States, Russia, Chile and the UAE.

passes the examination it is deemed safe and is marked accordingly with a Proof Mark. It is important to note that having a firearm proved in this country is not a legal requirement. It is only necessary when a small arm is offered for sale, sold or exchanged, pawned or pledged⁵. Small arms which are imported commercially must be presented to be proved, but not if imported for the personal use of the owner⁶. There will therefore be a number of firearms in circulation which bear no proof marks at all, or no British proof marks. To put it in terms of the modern criminal law: simple possession of an un-proved firearm is not an offence.

4. The Commission Internationale Permanente pour l'Epreuve des Armes à Feu Portatives (“CIP”) is an international organisation that administers the convention for the reciprocal recognition of proof marks on small arms 1971/11325 (the “Convention”) to which the United Kingdom is a signatory. The CIP publishes chamber measurements for various cartridges for the guidance of firearms and ammunition manufacturers. The Convention is an agreement between Governments for reciprocal recognition of proof marks. As already stated, the details are set out in the Appendix.

5. The specific issues in this case.

The questions raised by the member concerns ‘.308” Winchester’ cartridges. This is the only cartridge permitted by Rule 150 of the Rules of Shooting to be used for the discipline of Target Rifle. Rule 150 sets out a number of criteria which are not relevant to this Opinion, but what is important is an exception permitted in relation to .308 Winchester. The exception allows ‘non-standard’

⁵ Gun Barrel Proof Act 1868, Sections 108 & 109. Pledging a firearm is now illegal by virtue of S.3 (6) of the Firearms Act 1968.

⁶ Gun Barrel Proof Act 1868, Section 122(4).

ammunition and is identical to the specifications in the 1999 Memorandum permitting 'non-standard' .308, but the Rule provides a fourth criteria:-

“the minimum throat length may also be reduced but only to such extent that the bullet of the cartridge in use is not in contact with the rifling”.

All 4 of the exceptions will potentially increase pressure within the chamber, and may increase accuracy.

6. I understand the points raised by the member can be summarised as follows:-

- a) By publishing Rule 150 that allows for four reduced measurements the NRA is “directly or indirectly breaking the law” as it is in breach of a duty of care to its members. Allowing the use of rifles that comply with Rule 150 in competition exposes competitors to the risk of increased chamber pressure arising from the use of reduced measurements, leading to a failure of the rifle mechanism and personal injury;
- b) Rifles that are made to comply with Rule 150 do not comply with the Proof Acts; and
- c) Rule 150 is not consistent with the internationally-recognised chamber dimensions for the .308 Winchester cartridge.

To deal with these points in turn:-

7. The British Proof Authority clearly do not consider that any danger is created by proving 'non-standard' .308 rifles in accordance with the CIP specifications. The only danger therefore would have to be caused by shortening

the minimum throat length in addition to the other three non-standard criteria. No evidence has been presented to show this might be the case.

8. The Association is not, and cannot be, responsible for ensuring that firearms used on their ranges and in competitions run under their auspices are in safe working order. That is the sole responsibility of the owner and user of the firearm in question. As the NRA has adopted the criteria from the Memorandum regarding the first 3 specifications for non-standard .308, and there is no evidence that the 4th criteria creates any additional danger, it cannot be said that the Association is in breach of any duty of care. Any individual who has any concerns should consult either of the Proof Masters, who are always willing to give advice, and if necessary have their firearm tested. The NRA is therefore not 'breaking the law' by setting the Rules for Shooting in the way suggested.

9. In relation to b) , as I have already stated, there is no requirement for a rifle to comply with the Proof Acts, indeed that is a misnomer, it is simply that the Acts requires a firearm to be proved, in some circumstances.

10. Regarding c), it is debatable as to whether a system followed in 14 of the 200 or so countries of the world can properly be described as 'internationally recognised'. That aside, Rule 150 provides for a deviation from the standard chamber dimensions for the purposes of a particular competition. The fact that there is such a deviation permitted does not give rise to any legal issue. It is a matter for the governing body of the sport, in this case the NRA. It is ironic that the cartridge in question was devised in the United States, the most prolific

manufacturers of firearms in the world, and a country that does not see fit to have any sort of system to prove firearms.

11. NRA Approved Ammunition

It is important to bear in mind that competitors taking part in Target Rifle Competitions run under the auspices and Rules of the NRA are provided with standard ammunition by the NRA. The Association ensures that all such ammunition complies with the CIP Rules and advice, and when used in a rifle which complies with Rule 150 (including those with a shortened throat) will not produce more than the recommended 3650 bar in a CIP standard pressure barrel. To put it another way, Rule 150 only applies to NRA TR Competitions, all rifles used will comply with Rule 150, and in those competitions only ammunition which complies with the relevant advice will be used. The NRA are therefore clearly complying with their duty of care to competitors.

12. A number of offences are created by the Proof Acts, set out in Sections 108, 109, 121, 122 and 123 of the 1868 Act. These all relate to offences such as forging proof marks, selling unproved small arms, bribing the Proof Master and so on. None of these offences appear to be relevant to any aspect of these issues.

13. Summary

As stated above, the NRA have not, and cannot, commit any offence under the Proof Acts. Nor are they in breach of any duty of care to their members or competitors. The relevant Proof Master has a complete discretion as to whether

to prove a firearm presented to him. In accordance with the Rules of Proof he may pass or fail the firearm in question. To suggest that by presenting a non-standard .308 (or any other firearm) for proof which fails is an offence is not the law. It would be akin to suggesting that it was an offence to present a motor vehicle which subsequently failed an MOT.

14. I think that deals with the questions I was asked, but for the avoidance of doubt I should add the following points:-

i) Measurements published by the CIP for a given cartridge do not constitute a legally-enforceable obligation on the NRA to comply with those measurements and so there is no requirement for Rule 150 to reflect the CIP dimensions;

ii) It is not a breach of the Proof Acts (or any other legislation) to allow rifles with non-standard dimensions to be used in competitions. The NRA may establish Rules to govern the conduct of, and technical specifications of equipment used in, competitions organised by it without regard to the Proof Acts;

iii) Compliance with Rule 150 and proof-testing are two distinct matters. Any rifle, whether proved or not proved, must comply with Rule 150 if used in NRA competitions, and be used with NRA approved ammunition. A rifle does not have to be proved to be used in an NRA Competition, but the fact that a rifle has passed proof does not mean it complies with Rule 150. No doubt un-proved rifles are used in NRA Competitions;

iv) As well respected as both bodies are, the NRA would not take kindly to the Proof Master coming to Bisley to tell them how to run their ranges, nor he to the NRA going to the Proof House to tell him how to do his job. They have different responsibilities in which, as I have explained, there is little overlap;

v) The maker of a firearm is responsible for its manufacture and for certifying any non-standard dimensions to the Proof House when submitting a firearm for proof, if he intends to sell it.

vi) Following manufacture it is the sole responsibility of the owner of a firearm to ensure, on an ongoing basis, that it is in good working order, properly maintained, and is only used with appropriate ammunition which is safe to be used in that gun. No set of competition Rules can override this basic duty placed on the owner.

15. Please let me know if I can be of any further help.



NICHOLAS DOHERTY,

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APPENDIX

The technical specifications which apply to 'non-standard' .308 ammunition were devised following tests conducted in 1999 by the Birmingham Proof House and other interested parties. These relate to the use of certain dimensions in a .308 Winchester chamber that were smaller than the CIP standard. Following the tests the British Proof Authority then published a Memorandum stating that it would accept .308 Winchester rifles for proof with dimensions below those specified by CIP as follows (quoted only in part):

"The minimum acceptable dimensions are:-

G1- Throat = 0.3085 ...

F- Bore = 0.298 ...

Z- Groove = 0.3065...

These smaller dimensions than permitted by the CIP will be acceptable to the British Proof Authority on the following basis:

- 1) Certification in writing to the proof house confirming the actual dimensions of G1, F & Z on submission for proof.*
- 2) The barrel will be marked .308 Win Non Standard as will the dimensions not complying with the CIP minimum, e.g. G1 = 0.3085, F=0.298 & Z = 0.3065.*
- 3) A mandatory Proof Certificate will be issued that will show the calibre as .308 win Non Standard, the dimensions not complying with the CIP minimum, and the statement 'Only CIP approved .308 Win ammunition producing a maximum average pressure (Pt-max) of 3650 bar (CIP Radial Method) should be fired in this barrel.'"*

A person who presents a rifle to a Proof House is required to certify the nominal bore or calibre and certain dimensions and, if submitted relying on the Memorandum, the measurements of bore, groove and throat diameter (as described above). If the rifle passes proof-testing, the standard or non-standard dimensions are stamped on the rifle.

If a person supplies erroneous information in connection with the submission of any firearm for proof, the Proof Master may, under Rule 13 of the Rules of Proof, either refuse to prove the firearm or may prove it and mark it in such manner as he believes it ought to be proved and marked.

As stated in my Opinion, NRA Rule 150 adds one additional criteria for ammunition to be used in Target Rifle Competitions. In full it provides:-

“Bore and Chamber Dimensions: The dimensions must be not less than either CIP or SAAMI minimum chamber drawings (whichever is the smaller) other than [for 7.62x51 and .308 Winchester] where the following concessions are permitted:

[(a)] the bore diameter must be not less than 0.298”

[(b)] the groove diameter must be not less than 0.3065”

[(c)] the throat diameter must not be less than either the bullet diameter or 0.3085”, whichever is the greater

[(d)] the minimum throat length may also be reduced but only to such extent that the bullet of the cartridge in use is not in contact with the rifling.”

Therefore [(d)] above is an additional criteria not required by the Rules of Proof, the CIP and the Memorandum. It should be noted that an advisory pressure limit of 3650 bar in a CIP standard pressure barrel is stated for the use of such firearms, a limit also applied by Rule 150. For the reasons already stated this does not, in my opinion, affect the legal position of the NRA.

