



# Trade Union Reform and Employment Rights Act 1993

## 1993 CHAPTER 19

### PART I

#### TRADE UNIONS ETC.

##### *Financial affairs of unions etc.*

## 11 Offences

(1) In section 45 of the 1992 Act (offences), for subsection (5) there shall be substituted—

“(5) If a person contravenes any duty, or requirement imposed, under section 37A (power of Certification officer to require production of documents etc.) or 37B (investigations by inspectors) he commits an offence.

(6) In any proceedings brought against a person in respect of a contravention of a requirement imposed under section 37A(3) or 37B(4) to produce documents it is a defence for him to prove—

- (a) that the documents were not in his possession, and
- (b) that it was not reasonably practicable for him to comply with the requirement.

(7) If an official or agent of a trade union—

- (a) destroys, mutilates or falsifies, or is privy to the destruction, mutilation or falsification of, a document relating to the financial affairs of the trade union, or
- (b) makes, or is privy to the making of, a false entry in any such document,

he commits an offence unless he proves that he had no intention to conceal the financial affairs of the trade union or to defeat the law.

- (8) If such a person fraudulently—
  - (a) parts with, alters or deletes anything in any such document, or
  - (b) is privy to the fraudulent parting with, fraudulent alteration of or fraudulent deletion in, any such document,
 he commits an offence.
- (9) If a person in purported compliance with a duty, or requirement imposed, under section 37A or 37B to provide an explanation or make a statement—
  - (a) provides or makes an explanation or statement which he knows to be false in a material particular, or
  - (b) recklessly provides or makes an explanation or statement which is false in a material particular,
 he commits an offence.”.

(2) After that section there shall be inserted—

**“45A Penalties and prosecution time limits**

- (1) A person guilty of an offence under section 45 is liable on summary conviction—
  - (a) in the case of an offence under subsection (1) or (5), to a fine not exceeding level 5 on the standard scale;
  - (b) in the case of an offence under subsection (4), (7), (8) or (9), to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.
- (2) Proceedings for an offence under section 45(1) relating to the duty imposed by section 32 (duty to send annual return to Certification Officer) may be commenced at any time before the end of the period of three years beginning with the date when the offence was committed.
- (3) Proceedings for any other offence under section 45(1) may be commenced—
  - (a) at any time before the end of the period of six months beginning with the date when the offence was committed, or
  - (b) at any time after the end of that period but before the end of the period of twelve months beginning with the date when evidence sufficient in the opinion of the Certification Officer or, in Scotland, the procurator fiscal, to justify the proceedings came to his knowledge;
 but no proceedings may be commenced by virtue of paragraph (b) after the end of the period of three years beginning with the date when the offence was committed.
- (4) For the purposes of subsection (3)(b), a certificate signed by or on behalf of the Certification Officer or the procurator fiscal which states the date on which evidence sufficient in his opinion to justify the proceedings came to his knowledge shall be conclusive evidence of that fact.
- (5) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.
- (6) For the purposes of this section—

- (a) in England and Wales, proceedings are commenced when an information is laid, and
- (b) in Scotland, subsection (3) of section 331 of the Criminal Procedure (Scotland) Act 1975 (date of commencement of proceedings) applies as it applies for the purposes of that section.”.