

Schedule 3 to the Democracy Referendum Proposal

1. Repeal Bye-law 9 and replace it with the text as follows:

BYE LAW 9 ELECTIONS

1. Introduction

- 1.1 In this Bye-law, "election" means every election, by-election and re-run election held by or on behalf of AUGS, and shall include any held by a club or society or other group affiliated to AUGS.
- 1.2 But "election" shall not include any election to the Democratic Procedures Committee or the Elections Committee.
- 1.3 This Bye-law shall have effect in relation to the conduct and management of every such election.

2. Appointment of the Returning Officer

- 2.1 The Returning Officer shall be appointed annually by the Board of Trustees.
- 2.2 The Returning Officer shall be a person who is independent of AUGS, and shall not be:
 - (a) a member of staff of AUGS,
 - (b) a member of staff of any subsidiary company of AUGS (within the meaning of the Constitution),
 - (c) a Trustee of AUGS, or
 - (d) an AUGS Member.
- 2.3 The Board of Trustees may dismiss the Returning Officer if it appears to them reasonable grounds that he has failed to discharge his duties:
 - (a) properly, or
 - (b) otherwise than in a fair and impartial manner.

3. General powers of the Returning Officer

- 3.1 The Returning Officer shall be responsible for the good conduct and administration of every election and shall have the power to interpret:
 - (a) this Bye-law,
 - (b) Bye-law 9A (Elections to offices)
 - (c) Regulation 5,
 - (d) Regulation 6, and
 - (e) the Election Rules;but subject to such limitations as may be imposed by those enactments.
- 3.2 The Returning Officer shall have the general power to do anything

necessary for the carrying-out of his functions under this and every other Bye-law and Regulation of AUGS.

4. Duties of the Returning Officer

- 4.1 The Returning Officer shall be responsible for overseeing every election.
- 4.2 The Returning Officer may seek legal advice if he suspects that anything said or done or any publication produced in relation to an election might:
 - (a) constitute a breach of the law of England and Wales, or
 - (b) otherwise expose AUGS or a candidate to any proceedings in a civil or criminal court.
- 4.3 The Returning Officer shall have the power to rule out of order any statement or publication (or any part thereof) if he reasonably believes that statement or publication to be in breach of the relevant laws.
- 4.4 A person who knowingly:
 - (a) repeats a statement, or
 - (b) reproduces a publication;(or any part thereof) which has been ruled out of order by the Returning Officer pursuant to section 4.3 commits an electoral offence.

5. Appointment of assistants

- 5.1 The Returning Officer shall appoint a Deputy Returning Officer to ensure the good administration and promotion of elections.
- 5.2 The Returning Officer may appoint such persons as he sees fit as election officials.
- 5.3 The Deputy Returning Officer and election officials shall perform their duties in a fair and impartial manner.
- 5.4 The Returning Officer may, from time to time, give directions to the Deputy Returning Officer and election officials as to the nature and performance of their duties.
- 5.5 The Returning Officer may, from time to time, delegate his powers under this or any other Bye-law or Regulation of AUGS to the Deputy Returning Officer.
- 5.6 The Returning Officer may dismiss the Deputy Returning Officer or an election official if he believes on reasonable grounds that that person has failed to discharge their duties:
 - (a) properly, or
 - (b) otherwise than in a fair and impartial manner.

6. Elections Committee

- 6.1 The Elections Committee exists to assist and support the Returning Officer in the smooth running of elections.
- 6.2 This section is in addition to, and not in derogation of, section 9 of Bye-law 8 (Democratic Structure) of AUGS.

7. Campaign publicity

- 7.1 Before the last day of September in every year, the Elections Committee shall determine the maximum permitted expenditure for candidates in every class of election, as follows:
- (a) Officer Trustee elections,
 - (b) Part-time executive officer elections,
 - (c) Student Trustee elections,
 - (d) NUS delegate elections,
 - (e) Halls Representative elections,
 - (f) Town Representative elections, and
 - (g) Club and Society elections.
- 7.2 A person must not use an e-mail mailing list or group e-mails in the course of an election campaign, except where that use is:
- (a) solely for the purpose of communication with other members of his campaign team, or
 - (b) by the Returning Officer, Deputy Returning Officer or an election official.
- 7.3 A person who does anything in breach of section 7.2 commits an electoral offence.
- 7.4 Where a person who commits an electoral offence under this section is a member of a campaign team, a candidate on whose behalf he was campaigning also commits an electoral offence.
- 7.5 It is a defence for a candidate who commits an electoral offence only by virtue of section 7.4 to prove that:
- (a) he took every reasonable step to prevent such acts from occurring, or
 - (b) that the member of the campaign team did the act contrary to a direct instruction from the candidate, or another member of the campaign team.

8. Questions to Candidates (hustings)

- 8.1 The Returning Officer shall organise the holding of Questions to Candidates for every election.
- 8.2 The Returning Officer, or person appointed by them for that purpose, shall chair Questions to Candidates.
- 8.3 The format of Questions to Candidates will be conducted according to a process agreed at the candidates' training.
- 8.4 Questions must be directed to every candidate. The Chair may rule out of order a question which is not directed to every candidates.
- 8.5 A candidate who is on a placement during Questions to Candidates may appoint a deputy to speak on their behalf.

ELECTIONS

9. Elections

- 9.1 Every election shall be held by secret ballot.

RESULTS OF ELECTIONS

10. Counting of votes

- 10.1 Any AUGS Member may attend the count of an election as an observer, but any Member wishing to do so must notify the Returning Officer prior to the commencement of the count.
- 10.2 The count of an election shall be conducted by the Returning Officer or another person appointed by him for that purpose.
- 10.3 But the count of a club or society election may be conducted by any person in accordance with the provisions of regulations 2 and 3.

11. Declaration

- 11.1 The Returning Officer shall publish the result of an election as soon as is reasonably practicable following the count for that election, but in every case, no longer than 24 hours following the count.
- 11.2 This section does not apply to the result of a club or society election.

ELECTION RULES AND COMPLAINTS

12. Election Rules

- 12.1 The Returning Officer may, from time to time, make such Rules as he sees fit relating to:
- (a) the process for nominating people to stand for election,
 - (b) the conduct of election campaigns,
 - (c) the conduct of candidates,
 - (d) the production and display of electoral publicity;
- and a reference to making of Rules shall include a reference to the making of amendments to and repeals of Rules.
- 12.2 Every Rule must be made in writing, and no Rule shall have effect until a period of 48 hours has elapsed after the time at which it was made.
- 12.3 The Returning Officer must not make a Rule without first seeking the advice of:
- (a) the Deputy Returning Officer, and
 - (b) the Elections Committee.
- 12.4 The Returning Officer must publish the Rules as soon as reasonably practicable following their making.
- 12.5 Where an election campaign is in progress, the Returning Officer shall take every reasonable step to inform every candidate of any Rule that is made.

13. Rules: further provision

- 13.1 A Rule, or part thereof, shall not have effect if it would:
- (a) require any person to submit a deposit in excess of £20, or
 - (b) be contrary to the provisions of a relevant law.
- 13.2 A Rule may make provision for an act or omission by an AUGS Member to be an electoral offence.
- 13.3 In any proceedings or complaint made in respect of conduct alleged to have been committed in breach of a Rule, a certificate issued by the Returning Officer as to any fact of the making of a Rule shall be considered to be conclusive evidence of that fact.

14. Complaints

- 14.1 Any person (the complainant) may make a complaint to the Returning Officer regarding:
- (a) anything done in the course of an election campaign, or
 - (b) anything purported to have been done in the course of an election campaign;
- that, in the opinion of the complainant, constituted the committal of an electoral offence by an AUGS Member (the defendant).
- 14.2 A complaint must:
- (a) be made no longer than fourteen clear days following the count of the election to which it relates (but may be made at any point prior to that time),
 - (b) be made in writing with the name and student number of the member so complaining, and
 - (c) state the electoral offence alleged to have been committed.
- 14.3 But a person may not make a complaint after a count regarding anything done before that count unless he can prove that he was unable to make the complaint before that count was held.
- 14.4 The Returning Officer must consider every complaint and must hear such evidence as to him appears necessary to reach a judgement on the matter.
- 14.5 The Returning Officer must make his decision on the balance of probabilities.
- 14.6 The Returning Officer may:
- (a) reject the complaint:
 - i. on the grounds that it was not validly made,
 - ii. on the grounds that the act alleged to have been done was not in fact done, or
 - iii. on the grounds that the act done did not constitute an electoral offence,
 - (b) uphold the complaint, or

- (c) hold that the complaint is not proven.
- 14.7 The Returning Officer must inform the complainant and the defendant of his decision as soon as reasonably practicable, and must inform them of the right to appeal (as to which see section 16).

15. Complaints: punishments

- 15.1 If the Returning Officer upholds a complaint prior to the close of voting in the election, he may:
- (a) reprimand the candidate in respect of whom the complaint has been upheld,
 - (b) fine the candidate in respect of whom the complaint has been upheld,
 - (c) disqualify the candidate in respect of whom the complaint has been upheld, or
 - (d) direct that the election be abandoned and re-run.
- 15.2 If the Returning Officer upholds a complaint after the time specified for the close of voting in the election, he may:
- (a) reprimand the candidate in respect of whom the complaint has been upheld,
 - (b) fine the candidate in respect of whom the complaint has been upheld,
 - (c) disqualify the candidate in respect of whom the complaint has been upheld, or
 - (d) direct that the election be re-run.
- 15.3 Where the Returning Officer directs that an election be re-run, section 17 shall have effect for that purpose.
- 15.4 The cumulative total of any fines levied on a candidate under this section shall not be more than the amount deposited by that candidate as a deposit for the purposes of that election.

16. Complaints: appeals

- 16.1 If the complainant is not satisfied by a decision of the Returning Officer made in judgement on a complaint dealt with under section 14, they may appeal that decision to the Board of Trustees.
- 16.2 The Board of Trustees must consider every such appeal and must hear such evidence as to them appears necessary to reach a judgement on the matter.
- 16.3 The Board of Trustees must make their decision by a two-thirds majority.
- 16.4 The Board of Trustees may:
- (a) reject the complaint:
 - i. on the grounds that it was not validly made,
 - ii. on the grounds that the act alleged to have been done was not in fact done, or

- iii. on the grounds that the act done did not constitute an electoral offence.
 - (b) uphold the complaint, or
 - (c) hold that the complaint is not proven.
- 16.5 The Board of Trustees must inform the complainant and the defendant of his decisions as soon as reasonably practicable.
- 16.6 A decision made by the Board of Trustees under this section shall be final.

17. Re-running of election campaigns

- 17.1 +RON!!!!!!
- 17.2 This section shall only have effect where required by section 15.3.
- 17.3 The election shall be re-run notwithstanding any provision of any other Bye-law or Regulation.
- 17.4 The Returning Officer shall take such steps as are reasonably necessary to publicise the nature and cause of the re-run.
- 17.5 The re-run election shall be considered an election for the purposes of this Bye-law.

18. Interpretation

- 18.1 In this Bye-law, a reference to anything done in the course of an election campaign shall include a reference to anything said or published.
- 18.2 A requirement imposed by this Bye-law upon any person to publish any document or notice shall be construed as a requirement to make that document or notice available:
- (a) in a physical medium in the Guild Building,
 - (b) on the AUGS website, and
 - (c) on the request of an AUGS Member.
- 18.3 In this Bye-law, the following meanings shall have effect:
- “AUGS Member” shall have the meaning given to “Member” by clause 15 of the Constitution,
 - “campaign team” means a group of people, being AUGS Members, who act under the direction of a candidate for the purpose of an election campaign,
 - “candidate” means a person who stands in an election,
 - “club or society election” means an election or by-election conducted by and for a club or society affiliated to AUGS,
 - “election” shall have the meaning given by section 1,
 - “election campaign” means anything said or done by any person in support or opposition of a candidate or candidates in an election, but does not include anything said or done in promotion of an election in general,
 - “relevant laws” means the law of England and Wales, the Charter of the University and any statute, ordinance, standing

order, rules or regulations made thereunder, and the Constitution, Bye-laws and Regulations of AUGS, and any Election Rule made in pursuance of this Bye-law.