

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10: Contracts, Etc.

Section 142: Unenforceable terms

Effect

457. This section makes terms of contracts which discriminate against a person or would otherwise lead to conduct prohibited by the Act unenforceable in that respect. But a person who would have been disadvantaged by any such term will still be able to rely on it so as to obtain any benefit to which it entitles him.
458. For disability alone, this section also applies to terms of non-contractual agreements relating to the provision of employment services (within section 56(2)(a) to (e)) or group insurance arrangements for employees. These terms are referred to in the section as “relevant non-contractual terms”.
459. This section does not apply to a term of contract modified by an equality clause under Part 5, Chapter 3, because once the term is modified it is no longer discriminatory. Nor, as a result of section 148, does it deal with contractual terms which may breach the public sector equality duty (Part 11, Chapter 1) or the public sector duty regarding socio-economic inequalities (Part 1), to which different enforcement mechanisms apply.