

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 9: Enforcement

Chapter 4: Equality of terms

Section 128: References by court to tribunal, etc.

Effect

418. The Act does not prevent the civil courts from considering a contractual claim relating to an equality clause or rule. However, this section gives a court the power to strike out such a claim if it would be more convenient for a tribunal to deal with it, or to refer an issue relating to such a claim to an employment tribunal.

Background

419. Employment tribunals have the specialist knowledge and procedures to handle claims relating to equality of terms and this section gives a court power to refer such issues to a tribunal. This section replaces similar provisions in previous legislation.

Example

- An employer sues an employee in a civil court for breach of her employment contract. In response, the employee counterclaims for breach of an equality clause. The court decides to refer the counterclaim to an employment tribunal and postpones the case until the tribunal's decision.