

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10: Contracts, Etc.

Section 143: Removal or modification of unenforceable terms

Effect

461. This section allows a county court (or a sheriff court in Scotland) to modify or remove a contractual (or relevant non-contractual) term which is made unenforceable under section 142, when asked to do so by a person who has an interest in the contract (which includes anyone affected by it). The court may also decide that the term is to be treated as having been removed or modified during the period prior to the making of the order.
462. The court must first ensure that anyone who would be affected has been told of the proceedings and given an opportunity to make his or her views known. Rules of court determine what the court must do to meet this obligation.

Background

463. This section replaces similar provisions in previous legislation.

Example

- A person renting an office in a serviced office block could ask for a term in the rental contract to be amended if the term discriminated indirectly, for example by including an unjustified requirement that people entering the premises remove any facial covering (thus discriminating against Muslim women). The term could be adjusted by the court or sheriff to allow special arrangements to be made to satisfy both genuine security needs of other users and the religious needs of Muslim women visiting the claimant.