

WATER ACT 2014

EXPLANATORY NOTES

COMMENTARY

Part 1

Water Industry

Chapter 3

Regulation of the Water Industry

Adjudication functions

Section 39: Exercise of adjudication functions by other persons

170. This section creates a new power for the Secretary of State in relation to Ofwat's adjudication functions, listed in new section 207D. Currently, the WIA identifies a number of matters upon which Ofwat has a statutory duty to make a formal determination in cases of dispute between customers and the water and sewerage companies. This includes end-user customers, parties seeking connections to a sewer or a water main, parties applying for or seeking to vary a consent to discharge trade effluent and parties with a complaint about the exercise of works powers on private land.
171. This section allows the Secretary of State and the Welsh Ministers to make an order allowing any of the relevant functions to be performed by a specified party other than Ofwat; or by either Ofwat or another party at Ofwat's discretion. The relevant functions are set out at subsection (4) of new section 207D which clarifies that this power covers specified functions and does not extend to Ofwat's enforcement powers under section 18 of the WIA.
172. This section will enable the introduction of greater flexibility into the system for dispute resolution in order to enable routine disputes to be resolved in a timely manner and to allow for the development of expertise in relation to specific classes of dispute. Ofwat will be responsible for setting the regulatory framework within which the adjudication functions are performed. Subsection (2) provides that the order can require Ofwat to produce guidance as to how an adjudicator must exercise the relevant function. It also provides that the person exercising the function can be required to take account of any guidance to which Ofwat is itself subject.