

SCHEDULE 2

OFF-SITE CONDITIONS

PART 2

Compensation for off-site conditions

12.—(1) The amount to be paid by way of compensation must be assessed in accordance with this paragraph.

(2) The rules set out in section 12 of the 1963 Act have effect, so far as applicable and subject to any necessary modifications, for the purposes of this paragraph as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(3) No account may be taken of any enhancement of the value of any interest in land, by reason of any building erected, work done or improvement or alteration made on any land in which the person granting the off-site right is (or was at the time of the enhancement) directly or indirectly concerned if—

- (a) the enhancement was not reasonably necessary; and
- (b) was undertaken with a view to obtaining compensation or increased compensation.

(4) In calculating the amount of any loss under paragraph 9(e), expenditure incurred in the preparation of plans or on other similar preparatory matters must be taken into account.

(5) Where the interest in respect of which compensation is to be assessed is subject to a standard security—

- (a) the compensation is assessed as if the interest were not subject to that security;
- (b) no compensation is payable to the creditor in respect of their interest in the land; and
- (c) any compensation payable in respect of the interest subject to the security must be paid to the—
 - (i) creditor in that security; or
 - (ii) if there is more than one creditor, to the first ranking of such creditors,

provided that the sum paid must not be more than the sum due to the creditor, and must be applied by the creditor as if it were proceeds of sale.

Changes to legislation:

There are currently no known outstanding effects for the The Environmental Authorisations (Scotland) Regulations 2018, Paragraph 12.