



# Title Conditions (Scotland) Act 2003

## 2003 asp 9

### PART 3

#### CONSERVATION AND OTHER PERSONAL REAL BURDENS

##### *Health care burdens*

#### **46 Health care burdens**

- (1) On and after the day on which this section comes into force it shall, subject to subsection (2) below, be competent to create a real burden in favour of a National Health Service trust, or of the Scottish Ministers, for the purpose of promoting the provision of facilities for health care; and any such burden shall be known as a “health care burden”.
- (2) If under subsection (1) above the health care burden is to be created other than by the trust or the Scottish Ministers, the consent of the trust or those Ministers to the creation of the burden in its or their favour must be obtained before the constitutive deed is registered.
- (3) A health care burden may comprise an obligation to pay a sum of money (the sum or the method of determining it being specified in the constitutive deed) to the trust or the Scottish Ministers as the case may be.
- (4) It shall not be competent—
  - (a) to grant a standard security over; or
  - (b) to assign the right to,  
a health care burden.
- (5) Sections 40 and 41(a) and (b)(ii) of this Act apply in relation to a health care burden as they apply in relation to a conservation burden.
- (6) In subsection (1) above, “facilities for health care” includes facilities ancillary to health care; as for example (but without prejudice to that generality) accommodation for staff employed to provide health care.

**Changes to legislation:**

Title Conditions (Scotland) Act 2003, Section 46 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- s. 46(1) words repealed by [2004 asp 7 sch. 2](#)
- s. 46(2) words repealed by [2004 asp 7 sch. 2](#)
- s. 46(3) words repealed by [2004 asp 7 sch. 2](#)