



# Social Security (Scotland) Act 2018

## 2018 asp 9

### PART 2

#### GIVING OF ASSISTANCE BY SCOTTISH MINISTERS

#### CHAPTER 5

#### RECOVERY OF VALUE OF ASSISTANCE

##### *Assistance given in error*

#### **63 Liability for assistance given in error**

- (1) An individual is liable to pay the Scottish Ministers the value of any assistance that was given to the individual due to an error (but see section 64).
- (2) For the avoidance of doubt, the individual's liability under subsection (1) is limited to the difference in value between—
  - (a) the assistance that was given, and
  - (b) the assistance (if any) that would have been given had the error not been made.
- (3) If the assistance was given in a form other than money, its value for the purposes of this section is what giving it cost the Scottish Ministers (excluding any administration costs).
- (4) In this section and section 64, references to an error are to—
  - (a) an error in the performance of a function conferred by virtue of this Part, including a decision under section 50(1) being made—
    - (i) wrongly, or
    - (ii) correctly but on the basis of—
      - (A) incorrect information, or
      - (B) an assumption which proves to be wrong,
  - (b) a new decision under section 50(1) not being made after an assumption on the basis of which an earlier decision was made has proved to be wrong.

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**Changes to legislation:** *Social Security (Scotland) Act 2018, Section 63 is up to date with all changes known to be in force on or before 27 February 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. (See end of Document for details) View outstanding changes*

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#### **Commencement Information**

- II** S. 63 in force at 22.10.2018 by [S.S.I. 2018/298](#), [reg. 2\(1\)\(k\)](#) (with [reg. 3](#)) (as amended (10.12.2019) by [S.S.I. 2019/406](#), [regs. 1, 2\(2\)](#))

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[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 81(4C) inserted by [2021 asp 20 s. 2\(a\)](#)
- s. 85D inserted by [2020 asp 18 s. 2\(6\)](#)