



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

64 Exclusion from liability

- (1) An individual has no liability under section 63(1) in respect of assistance given due to an error if the error is neither—
 - (a) the individual's fault, nor
 - (b) the kind of error that an individual could reasonably be expected to notice.
- (2) For the purpose of this section, an error is an individual's fault if it is caused or contributed to by the individual—
 - (a) providing false or misleading information,
 - (b) failing to notify the Scottish Ministers about a change in circumstances in breach of a duty to do so under section 56, or
 - (c) causing another person to do either of those things.
- (3) In considering whether an error is of a kind that an individual could reasonably be expected to notice, the following are amongst the matters to which regard is to be had—
 - (a) the extent to which the value of the assistance given in error exceeds the value of the assistance that would have been given (if any) had the error not been made,
 - (b) whether any information given to the individual by the Scottish Ministers prior to, or immediately after, the assistance being given would have alerted a reasonable person to the fact that a decision had been, or was to be, made on the basis of incorrect information or a wrong assumption.

Changes to legislation: *Social Security (Scotland) Act 2018, Section 64 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*

(4) In—

- (a) subsection (2)(a), the reference to providing information includes making a statement,
- (b) subsection (3)(b), the reference to information given to the individual by the Scottish Ministers does not include information explaining why the Ministers consider the assistance to have been given in error.

Commencement Information

- II** S. 64 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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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\(6\)](#)