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STATUTORY INSTRUMENTS

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**2005 No. 770**

**INCOME TAX**

**The Section 318C Income Tax (Earnings and Pensions) Act 2003 (Amendment) Regulations 2005**

<i>Made</i>	- - - -	<i>17th March 2005</i>
<i>Laid before the House of Commons</i>	- - - -	<i>17th March 2005</i>
<i>Coming into force</i>	- -	<i>6th April 2005</i>

The Treasury, in exercise of the powers conferred upon them by section 318D(2) of the Income Tax (Earnings and Pensions) Act 2003<sup>(1)</sup>, and having regard to the corresponding provisions of regulations under section 12 of the Tax Credits Act 2002 relating to entitlement to the child care element of working tax credit<sup>(2)</sup>, make the following Regulations:

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Section 318C Income Tax (Earnings and Pensions) Act 2003 (Amendment) Regulations 2005 and shall come into force on 6th April 2005.

(2) Regulation 3(a) has effect from 1st January 2006.

**Amendment of section 318C of the Income Tax (Earnings and Pensions) Act 2003**

2. Section 318C of the Income Tax (Earnings and Pensions) Act 2003<sup>(3)</sup> is amended as follows.

3. In subsection (2)—

(a) omit paragraph (e);

(b) before paragraph (f) insert—

“(ea) by a child care provider approved in accordance with the Tax Credits (Approval of Child Care Providers) Scheme 2005<sup>(4)</sup>, or”.

4. In subsection (3) at the end add—

“or

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(1) 2003 c. 1; section 318D was inserted by paragraph 1 of Schedule 13 to the Finance Act 2004 (c. 12).

(2) See regulation 14 of S.I. 2002/2005 as amended by S.I. 2004/2663 and 2005/ 769.

(3) Section 318D was inserted by paragraph 1 of Schedule 13 to the Finance Act 2004.

(4) S.I. 2005/93.

(e) by a domiciliary care worker under the Domiciliary Care Agencies (Wales) Regulations 2004<sup>(5)</sup>.”

5. In subsection (7) at the end add—

“, or

(c) in the case of care falling within subsection (2)(ea), if—

(i) it is provided wholly or mainly in the home of a relative of the child, and

(ii) the provider usually provides care there solely in respect of one or more children to whom the provider is a relative.”.

6. After subsection (8) insert—

“(9) In subsection (7)(c), “relative in relation to a child, also includes—

(a) a local authority foster parent in relation to the child,

(b) a foster parent with whom the child has been placed by a voluntary organisation,

(c) a person who fosters the child privately (within the meaning of section 66 of the Children Act 1989<sup>(6)</sup>), or

(d) a step-parent of the child.”.

*John Heppell*

*Nick Ainger*

Two of the Lords Commissioners of Her  
Majesty’s Treasury

17th March 2005

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(5) S.I. 2004/219.

(6) 1989 c. 41; section 66(1) was relevantly amended by paragraph 14 of Schedule 4 to the Care Standards Act 2000 (c. 14).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend section 318C of the Income Tax (Earnings and Pensions) Act 2003 (which provides for an exemption from income tax for employee benefits in respect of certain employer-provided or employer-contracted child care).

The principal effects of these Regulations are (1) to extend the categories of child care providers whose care is covered by the exemption, to include providers approved under the Tax Credits (Approval of Child Care Providers) Scheme 2005 (S.I.2005/93) (regulation 3) while (2) where that extended meaning of provider applies, excluding care in a relative's home, provided by a relative of the child, where that person only provides care for children of relatives or for his or her own children (mirroring an exclusion under the Scheme) (regulations 5 and 6).

A Regulatory Impact Assessment has not been prepared for these Regulations as they impose no costs on business.