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STATUTORY INSTRUMENTS

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**2007 No. 849**

**INCOME TAX**

**The Income Tax (Qualifying Child Care) Regulations 2007**

<i>Made</i>	- - - -	<i>14th March 2007</i>
<i>Laid before the House of Commons</i>	- - - -	<i>15th March 2007</i>
<i>Coming into force</i>	- -	<i>6th April 2007</i>

The Treasury make the following Regulations, in exercise of the powers conferred 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<sup>(2)</sup> relating to entitlement to the child care element of working tax credit:

**Citation and commencement**

1. These Regulations may be cited as the Income Tax (Qualifying Child Care) Regulations 2007 and shall come into force on 6th April 2007.

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

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

(2) In subsection (2)—

- (a) in paragraph (c) omit “between the child’s 8<sup>th</sup> birthday and the last day on which he is treated as being a child”;
- (b) at the end of paragraph (c) omit “or”;
- (c) in paragraph (e) omit “or”;
- (d) at the end of paragraph (ea) omit “or”; and
- (e) after paragraph (ea) insert—

“(eb) by a child care provider registered under the Childcare (Voluntary Registration) Regulations 2007<sup>(4)</sup>, 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) 2002. c. 21. See regulation 14 of S.I. 2002/2005 as amended by S.Is. 2004/2663, 2005/769 and 2007/xxx..  
(3) Section 318C was inserted by paragraph 1 of Schedule 13 to the Finance Act 2004.  
(4) S.I. 2007/730.

- (3) In subsection (3)—
- (a) in paragraph (c) omit “between the child’s 8th birthday and the last day on which he is treated as being a child”;
  - (b) at the end of paragraphs (c) and (d) omit “or”; and
  - (c) after paragraph (e) insert—
    - “or
    - (f) by a child care provider approved under the Tax Credits (Approval of Child Care Providers) (Wales) Scheme 2007(5).”.
- (4) In subsection (5)(c) omit “between the child’s 12<sup>th</sup> birthday and the last day on which he is treated as being a child”.
- (5) In subsection (7)—
- (a) at the end of paragraph (a) omit “or”; and
  - (b) in paragraph (c) after “subsection (2)(ea)” insert “or (3)(f)”.

14th March 2007

*Frank Roy*  
*Alan Campbell*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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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 (“ITEPA”) which provides for an exemption from income tax for employee benefits in respect of certain employer-provided or employer contracted child care. The amendments provide for the introduction of the Tax Credits (Approval of Child Care Providers) (Wales) Scheme 2007 (S.I.2007/226 (W.20)) (“the Welsh Child Care Scheme”) which came into force on 1<sup>st</sup> February 2007 subject to a prohibition on the granting of approvals under the scheme before 6<sup>th</sup> April 2007 and the Childcare (Voluntary Registration) Regulations 2007 (S.I. 2007/730) which comes into force on 1<sup>st</sup> April 2007. An amendment is also made to remove the age restriction previously in place for out of school hours care. This brings the legislation into line with the corresponding regulations made under section 12 of the Tax Credits Act 2002 (c. 21).

Regulation 2 makes the amendments to section 318C of ITEPA.

Paragraph (2) removes the requirement that out of school hours care can only be provided for children of 8 or over in order for it to be treated as “qualifying child care” for the purposes of section 318A of ITEPA. This amendment brings the income tax provisions for “qualifying child care” into line with the corresponding provisions for working tax credit contained in regulation 14 of Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005). The paragraph also adds care provided by a child care provider registered under the Childcare (Voluntary Registration) Regulations 2007 to the list of “qualifying child care”.

Paragraphs (3) and (4) make the same amendment as that made in paragraph (2) for out of school hours care in respect of care provided in Wales and Northern Ireland. Paragraph (3) also adds care provided by a child care provider approved under the Welsh Child Care Scheme to the list of care which is treated as “qualifying child care” for the purposes of section 318A of ITEPA.

Paragraph (5) excludes care provided by a child care provider approved under the Welsh Child Care Scheme from the ambit of section 318A if it falls within subsections 318C(7)(i) and (ii) (care provided by a relative in the relative’s home).

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.