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STATUTORY INSTRUMENTS

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**2011 No. 712**

**INCOME TAX**

**The Qualifying Care Relief (Specified  
Social Care Schemes) Order 2011**

<i>Made</i>	- - - -	<i>10th March 2011</i>
<i>Laid before the House of Commons</i>	- - - -	<i>11th March 2011</i>
<i>Coming into force</i>	- -	<i>4th April 2011</i>

The Treasury make the following Order in exercise of powers conferred by section 806A(4) and (5) of the Income Tax (Trading and other Income) Act 2005<sup>(1)</sup>.

**Citation, commencement and effect**

1.—(1) This Order may be cited as the Qualifying Care Relief (Specified Social Care Schemes) Order 2011.

(2) This Order shall come into force on 4th April 2011.

(3) This Order shall have effect for the tax year 2010-2011 and subsequent tax years.

**Interpretation**

2. In this Order—

“L” is a local authority or a health service body within section 986 (meaning of “health service body”) of the Corporation Tax Act 2010<sup>(2)</sup>.

“looked after child” means a child—

(a) in England and Wales, to whom section 22C (ways in which looked after children are to be accommodated and maintained) of the Children Act 1989<sup>(3)</sup> applies,

(b) in Scotland, to whom section 26 (manner of provision of accommodation to child looked after by a local authority) of the Children (Scotland) Act 1995<sup>(4)</sup> applies, and

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(1) 2005 c. 5. Section 806A was inserted by Schedule 1 to the Finance (No. 3) Act 2010 (c. 33).

(2) 2010 c. 4.

(3) 1989 c. 41. Section 22C was inserted by section 8(1) of the Children and Young Persons Act 2008 (c. 23).

(4) 1995 c. 36. Section 26(2)(b)(i) was substituted by paragraph 9 of Schedule 1 to the Children and Young Persons Act 2008.

(c) in Northern Ireland, to whom Article 27(2) (accommodation and maintenance for children) of the Children (Northern Ireland) Order 1995<sup>(5)</sup> applies.

“section 806A” means section 806A (meaning of providing shared lives care) of the Income Tax (Trading and Other Income) Act 2005,

“X” is a person who, by reason of age, illness, disability or other vulnerability, is in need of care, and

“Y” is the individual in section 806A(1).

### **Specified social care schemes: overview**

**3.—**(1) For the purposes of paragraph (c) of subsection (2) of section 806A, a specified social care scheme means a scheme, service or arrangement that provides—

- (a) adult placement care (article 4),
- (b) kinship care (article 5), or
- (c) staying put care (article 6).

### **Specified social care schemes for adult placement care**

**4.—**(1) A specified social care scheme in relation to adult placement care must meet Conditions A to C.

(2) Condition A is that X is placed with Y.

(3) Condition B is that Y is—

- (a) in England, an adult placement carer within the meaning of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010<sup>(6)</sup>,
- (b) in Wales, an adult placement carer within the meaning of the Adult Placement Schemes (Wales) Regulations 2004<sup>(7)</sup>,
- (c) in Scotland, a person with whom X has been accommodated by an adult placement service within the meaning of section 47(1)(j) of the Public Services Reform (Scotland) Act 2010<sup>(8)</sup>, or
- (d) in Northern Ireland, an adult placement carer within the meaning of the Adult Placement Agencies Regulations (Northern Ireland) 2007<sup>(9)</sup>.

(4) Condition C is that Y receives payment from L for providing adult placement care to X.

(5) Until the coming into force of section 47(1)(j) of the Public Services Reform (Scotland) Act 2010, the reference to that provision in sub-paragraph (c) of paragraph 3 is to section 2(16) of the Regulation of Care (Scotland) Act 2001<sup>(10)</sup>.

### **Specified social care schemes for kinship care**

**5.—**(1) A specified social care scheme in relation to kinship care must meet Conditions A to F.

(2) Condition A is that X has not yet attained 18 years of age.

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(5) S.I. 1995/755 (N.I. 2), as amended by Schedule 4 to the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 S.I. 2003/431 (N.I. 9).

(6) S.I. 2010/781.

(7) S.I. 2004/1756 (W. 188), as amended by the Adult Placement Schemes (Wales) (Miscellaneous Amendments) Regulations 2010 S.I. 2010/2585 (W. 217).

(8) 2010 asp 8.

(9) S.R. (NI) 2007 No 221.

(10) 2001 asp 8.

- (3) Condition B is that X is a looked after child.
- (4) Condition C is that Y receives payment from L for providing kinship care to X.
- (5) Condition D is that Y is—
  - (a) related to X either by blood, marriage or civil partnership, but is not a parent or step-parent of X, or
  - (b) known to X and with whom X has a pre-existing relationship.
- (6) Condition E is that Y is regarded by L as a suitable person to care for X.
- (7) Condition F is that, in relation to X, Y is not a person in respect of whom a court has made—
  - (a) a residence order, or
  - (b) a special guardianship order.

### **Specified social care schemes for staying put care**

6.—(1) A specified social care scheme in relation to staying put care must meet Conditions A to D.

- (2) Condition A is that X is—
  - (a) in full-time education,
  - (b) in full-time higher education, or
  - (c) pursuing full-time vocational training.
- (3) Condition B is that if X is aged 18 years or over, immediately prior to reaching 18 years X was—
  - (a) subject to a care order, or
  - (b) a looked after child.
- (4) Condition C is that Y receives payment from L for providing staying put care to X.
- (5) Condition D is that X has a pathway plan.

10th March 2011

*Michael Fabricant*  
*Angela Watkinson*  
Two of the Lords Commissioners to Her  
Majesty's Treasury

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

Section 1 of, and Schedule 1 to, the Finance (No. 3) Act 2010 (c. 33) amends the Income Tax (Trading and Other Income) Act 2005 (c. 5) (“ITTOIA”) to extend foster care relief to qualifying shared lives carers.

The new relief is called qualifying care relief, and provides relief from income tax where qualifying care receipts do not exceed the individual’s limit (section 803(2)-(3) ITTOIA). Where qualifying care receipts exceed the individual’s limit, the individual may elect for an alternative method of calculating the income (section 803(4) ITTOIA).

Section 806A (meaning of providing shared lives care) of ITTOIA sets out the conditions which have to be met in order to provide shared lives care for the purposes of qualifying care relief. One of these conditions is that an adult or child has been placed with a carer under a “specified social care scheme” (section 806A(2)(c)).

A “social care scheme” is a scheme, service or arrangement for those who, by reason of age, illness, disability or other vulnerability, are in need of care (section 806A(6)). In this context “care” means personal care, including assistance and support (section 806A(6)).

This Order exercises powers given by section 806A(4) to specify the social care schemes that will meet the condition in section 806A(2)(c).

This Order has effect for the tax year 2010-2011, as permitted by section 806A(5) ITTOIA, and for subsequent tax years.

Article 2 sets out definitions used in this Order.

Article 3 sets out the type of scheme that will qualify for relief.

Article 4 sets out the three conditions which have to be met by adult placement care schemes to satisfy section 806A(2)(c).

Article 5 sets out the six conditions that have to be met by kinship care schemes to satisfy section 806A(2)(c).

Article 6 sets out the four conditions which have to be met by staying put care schemes to satisfy section 806A(2)(c).

A full impact assessment has not been produced for this instrument as it has a negligible impact on the private or voluntary sectors.