

**EXPLANATORY MEMORANDUM TO
THE QUALIFYING CARE RELIEF (SPECIFIED SOCIAL CARE SCHEMES)
ORDER 2011**

2011 No. 712

1. This explanatory memorandum has been prepared by Her Majesty's Revenue & Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 This Order specifies three types of social care schemes that will qualify as a "specified social care scheme" under Section 806A(2)(c) of the Income Tax (Trading and Other Income) Act 2005 (ITTOIA). These are adult placement schemes, kinship care schemes and staying put care schemes. This Order sets out conditions that have to be met in relation to each type of scheme.

2.2 Where all the conditions in section 806A(2) are met, including the conditions relating to the three types of schemes specified in this Order, a person provides "shared lives care" and is able to access "qualifying care relief".

3. **Matters of special interest to the Select Committee on Statutory Instruments**

3.1 Section 806A(5) of ITTOIA provides that an order made under s806A(4) "may make provision having effect in relation to the tax year current on the day on which the order is made". This Order will be made during the tax year 2010-11, and will have effect for tax year 2010-11 and subsequent tax years.

4. **Legislative Context**

4.1 Section 804A(1) of ITTOIA provides that where a person has receipts for providing shared lives care in a tax year, that person will be entitled to qualifying care relief. The meaning of "providing shared lives care" for these purposes is set out in section 806A of ITTOIA. Shared lives care is provided by an individual if s/he provides accommodation and care for an adult or child who has been placed with her/him (section 806A(1)). There are five further conditions to be met, as set out in section 806A(2). One of these is that an adult or child has been placed with a carer under a "specified social care scheme" (section 806A(2)(c) ITTOIA).

4.2 The Order specifies the three types of social care schemes that will qualify for the relief, and the conditions that have to be met in relation to each scheme.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Finance (No. 3) Act 2010 (the Act) introduced the new "qualifying care relief". Qualifying care relief aligns the tax treatment of shared lives carers with the tax treatment of foster carers. The relief replaces certain extra statutory concessions which HMRC operated for shared lives carers. The concessionary treatment had become outdated as a result of developments in the care system and the new relief will provide one set of simplified income tax arrangements for these carers.

7.2 The relief is aimed at carers who share their home and family life with the individuals placed with them. To ensure that all appropriate care arrangements are covered the Government has specified in this Order the three types of social care schemes that will qualify for qualifying care relief and has set out conditions that have to be met in relation to each type of scheme.

8. Consultation outcome

8.1 A draft of this Order was published for comment on an informal basis on 20 December 2010. Several responses were received and considered in the drafting of the Order.

9. Guidance

9.1 The draft guidance will be prepared and shared with stakeholders for their comments.

10. Impact

10.1 An Impact Assessment has not been prepared for this Order as it has a negligible impact on business, charities and voluntary bodies.

11. Regulating small business

11.1 The legislation applies to small business but its effect is negligible.

12. Monitoring & review

12.1 HMRC will keep this under review to ensure that the Order achieves its aims.

13. Contact

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