



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 4

EMPLOYMENT INCOME: EXEMPTIONS

CHAPTER 11

MISCELLANEOUS EXEMPTIONS

Childcare

[^{F1}318C Childcare: meaning of “qualifying child care”

- (1) For the purposes of section 318A “qualifying child care” means registered or approved care within any of subsections (2) to (6) below that is not excluded by subsection (7) below.
- (2) Care provided for a child in England is registered or approved care if it is provided—
 - ^{F2}(a)
 - ^{F3}(b)
[by a person registered under Part 3 of the Childcare Act 2006,]
 - ^{F4}(ba) [^{F5}(c) by or under the direction of the proprietor of a school on the school premises (subject to subsection (2B)),][^{F6}or]
 - ^{F7}(d)
 - ^{F8}(e)
 - ^{F9}
- ^{F10}(ea)
- ^{F11}(eb)

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(f) by a domiciliary care worker under the Domiciliary Care Agencies Regulations 2002, and

^{F12}(g)

[In subsection (2)(c)—

^{F13}(2A)

“proprietor”, in relation to a school, means—

(a) the governing body incorporated under section 19 of the Education Act 2002, or

(b) if there is no such body, the person or body of persons responsible for the management of the school;

“school” means a school that Her Majesty’s Chief Inspector of Education, Children’s Services and Skills (the “Chief Inspector”) is or may be required to inspect;

“school premises” means premises that may be inspected as part of an inspection of the school by the Chief Inspector.

(2B) Care provided for a child in England is not registered or approved care under subsection (2)(c) if—

(a) it is provided during school hours for a child who has reached compulsory school age, or

(b) it is provided in breach of a requirement to register under Part 3 of the Childcare Act 2006.]

(3) Care provided for a child in Wales is registered or approved care if it is provided—

(a) by a person registered under [^{F14}Part 2 of the Children and Families (Wales) Measure 2010],

[^{F15}(b) by a person in circumstances where, but for article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010, the care would be day care for the purposes of Part 2 of the Children and Families (Wales) Measure 2010,]

(c) in the case of care provided for a child out of school hours ^{F16}..., by a school on school premises or by a local authority, ^{F17}...

(d) by a child care provider approved by an organisation accredited under the Tax Credit (New Category of Child Care Provider) Regulations 1999 ^{F17}[^{F18}...

(e) by a domiciliary care worker under the Domiciliary Care Agencies (Wales) Regulations 2004,]^{F19}...

[^{F20}(f) by a child care provider approved under the Tax Credits (Approval of Child Care Providers) (Wales) Scheme 2007.]

[^{F21}(g) by a foster parent in relation to a child (other than one whom the foster parent is fostering) in circumstances where, but for the fact that the child is too old, the care would be—

(i) child minding, or day care, for the purposes of Part 2 of the Children and Families (Wales) Measure 2010, or

(ii) qualifying child care for the purposes of the Tax Credits (Approval of Child Care Providers) (Wales) Scheme 2007.]

(4) Care provided for a child in Scotland is registered or approved care if it is provided—

(a) by a person in circumstances where the care service provided by him—

(i) consists of child minding or of day care of children within the meaning of section 2 of the Regulation of Care (Scotland) Act 2001, and

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- (ii) is registered under Part 1 of that Act ^{F22} ... [^{F23} or]
 - (b) by a local authority in circumstances where the care service provided by the local authority—
 - (i) consists of child minding or of day care of children within the meaning of section 2 of the Regulation of Care (Scotland) Act 2001, and
 - (ii) is registered under Part 2 of that Act, ^{F24} ...
 - ^{F24}(c)
- (5) Care provided for a child in Northern Ireland is registered or approved care if it is provided—
 - (a) by a person registered under Part XI of the Children (Northern Ireland) Order 1995, or
 - (b) by an institution or establishment that does not need to be registered under that Part to provide the care because of an exemption under Article 121 of that Order, ^{F25} ...
 - (c) in the case of care provided for a child out of school hours ^{F26} ..., by a school on school premises or by an education and library board or an HSS trust.
 - ^{F27}(d)
 - [by a home child care provider approved in accordance with the Tax Credits (Approval of Home Child Care Providers) Scheme (Northern Ireland) 2006][^{F29}, or
 - ^{F28}(e) (f) by a foster parent in relation to a child (other than one whom the foster parent is fostering) in circumstances where, but for the fact that the child is too old, the care would be—
 - (i) child minding, or day care, for the purposes of Part XI of the Children (Northern Ireland) Order 1995, or
 - (ii) qualifying child care for the purposes of the Tax Credits (Approval of Home Child Care Providers) Scheme (Northern Ireland) 2006.]
- (6) Care provided for a child outside the United Kingdom is registered or approved child care if it is provided by a child care provider approved by an organisation accredited under the Tax Credit (New Category of Child Care Provider) Regulations 2002.
- (7) Child care is excluded from section 318A—
 - (a) if it is provided by the partner of the employee in question, ^{F30} ...
 - (b) if it is provided by a relative of the child wholly or mainly in the child's home or (if different) the home of a person having parental responsibility for the child[^{F31}, ^{F32} ...
 - (c) in the case of care falling within subsection ^{F33} ... [^{F34}(3)(f)], 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][^{F35}, or
 - (d) if it is provided by a foster parent[^{F36}, ^{F37} ... in respect of a child whom that person is fostering ^{F37} ...]].
- (8) In subsection (7)—
 - “partner” means one of a [^{F38} couple (within the meaning given by section 137(1) of SSCBA 1992 or section 133(1) of SSCB(NI)A 1992)]; and

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“relative” means parent, grandparent, aunt, uncle, brother or sister, whether by blood, half blood or marriage [^{F39}or civil partnership].

- [In subsection (7)(c), “relative in relation to a child, also includes—
- ^{F40}(9) (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, or
 (d) a step-parent of the child.]

- [In this section “foster parent” in relation to a child—
- ^{F41}(10) (a) in relation to England, means a person with whom the child is placed under the Fostering Services Regulations 2002;
 (b) in relation to Wales, means a person with whom the child is placed under the Fostering Services (Wales) Regulations 2003; and
 (c) in relation to Northern Ireland, means a person with whom the child is placed under the Foster Placement (Children) Regulations (Northern Ireland) 1996.

^{F42}(11)]]

Textual Amendments

- F1** Ss. 318-318D substituted for s. 318 (with effect in accordance with s. 78(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 13 para. 1](#)
- F2** S. 318C(2)(a) omitted (18.7.2009) by virtue of [The Income Tax \(Qualifying Child Care\) Regulations 2009 \(S.I. 2009/1544\)](#), regs. 1(2), [3\(2\)\(a\)](#)
- F3** S. 318C(2)(b) omitted (1.9.2008) by virtue of [The Income Tax \(Qualifying Child Care\) Regulations 2008 \(S.I. 2008/2170\)](#), regs. 1, [3\(2\)\(a\)](#)
- F4** S. 318C(2)(ba) inserted (1.9.2008) by [The Income Tax \(Qualifying Child Care\) Regulations 2008 \(S.I. 2008/2170\)](#), regs. 1, [3\(2\)\(b\)](#)
- F5** S. 318C(2)(c) substituted (1.9.2008) by [The Income Tax \(Qualifying Child Care\) Regulations 2008 \(S.I. 2008/2170\)](#), regs. 1, [3\(2\)\(c\)](#)
- F6** Word in s. 318C(2)(c) inserted (18.7.2009) by [The Income Tax \(Qualifying Child Care\) Regulations 2009 \(S.I. 2009/1544\)](#), regs. 1(2), [3\(2\)\(b\)](#)
- F7** S. 318C(2)(d) omitted (1.10.2007) by virtue of [The Income Tax \(Qualifying Child Care\) \(No. 2\) Regulations 2007 \(S.I. 2007/2478\)](#), regs. 1, [2](#)
- F8** S. 318C(2)(e) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Section 318C Income Tax \(Earnings and Pensions\) Act 2003 \(Amendment\) Regulations 2005 \(S.I. 2005/770\)](#), regs. 1(1), [3\(a\)](#)
- F9** Word in s. 318C(2)(e) omitted (6.4.2007) by virtue of [The Income Tax \(Qualifying Child Care\) Regulations 2007 \(S.I. 2007/849\)](#), regs. 1, [2\(2\)\(c\)](#)
- F10** S. 318C(2)(ea) omitted (18.7.2009) by virtue of [The Income Tax \(Qualifying Child Care\) Regulations 2009 \(S.I. 2009/1544\)](#), regs. 1(2), [3\(2\)\(a\)](#)
- F11** S. 318C(2)(eb) and preceding word omitted (1.9.2008) by virtue of [The Income Tax \(Qualifying Child Care\) Regulations 2008 \(S.I. 2008/2170\)](#), regs. 1, [3\(2\)\(d\)](#)
- F12** S. 318C(2)(g) omitted (18.7.2009) by virtue of [The Income Tax \(Qualifying Child Care\) Regulations 2009 \(S.I. 2009/1544\)](#), regs. 1(2), [3\(2\)\(a\)](#)
- F13** S. 318C(2A)(2B) inserted (1.9.2008) by [The Income Tax \(Qualifying Child Care\) Regulations 2008 \(S.I. 2008/2170\)](#), regs. 1, [3\(3\)](#)
- F14** Words in s. 318C(3)(a) substituted (6.4.2011) by [The Income Tax \(Qualifying Child Care\) Regulations 2011 \(S.I. 2011/775\)](#), regs. 1, [3\(2\)\(a\)](#)

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- F15** S. 318C(3)(b) substituted (6.4.2011) by The Income Tax (Qualifying Child Care) Regulations 2011 (S.I. 2011/775), regs. 1, **3(2)(b)**
- F16** Words in s. 318C(3)(c) omitted (6.4.2007) by virtue of The Income Tax (Qualifying Child Care) Regulations 2007 (S.I. 2007/849), regs. 1, **2(3)(a)**
- F17** Word in s. 318C(3)(c)(d) omitted (6.4.2007) by virtue of The Income Tax (Qualifying Child Care) Regulations 2007 (S.I. 2007/849), regs. 1, **2(3)(b)**
- F18** S. 318C(3)(e) and preceding word added (6.4.2005) by The Section 318C Income Tax (Earnings and Pensions) Act 2003 (Amendment) Regulations 2005 (S.I. 2005/770), regs. 1(1), **4**
- F19** Word in s. 318C(3) omitted (1.9.2008) by virtue of The Income Tax (Qualifying Child Care) Regulations 2008 (S.I. 2008/2170), regs. 1, **3(4)(a)**
- F20** S. 318C(3)(f) and preceding word inserted (6.4.2007) by The Income Tax (Qualifying Child Care) Regulations 2007 (S.I. 2007/849), regs. 1, **2(3)(c)**
- F21** S. 318C(3)(g) substituted (6.4.2011) by The Income Tax (Qualifying Child Care) Regulations 2011 (S.I. 2011/775), regs. 1, **3(2)(c)**
- F22** Word in s. 318C(4)(a) omitted (21.11.2009) by virtue of The Income Tax (Qualifying Child Care) (No. 2) Regulations 2009 (S.I. 2009/2888), regs. 1(2), **2(3)**
- F23** Word in s. 318C(4)(a) inserted (6.4.2011) by The Income Tax (Qualifying Child Care) Regulations 2011 (S.I. 2011/775), regs. 1, **3(3)(a)**
- F24** S. 318C(4)(c) and preceding word omitted (6.4.2011) by virtue of The Income Tax (Qualifying Child Care) Regulations 2011 (S.I. 2011/775), regs. 1, **3(3)(b)**
- F25** Word in s. 318C(5)(b) omitted (21.11.2009) by virtue of The Income Tax (Qualifying Child Care) (No. 2) Regulations 2009 (S.I. 2009/2888), regs. 1(2), **2(4)**
- F26** Words in s. 318C(5)(c) omitted (6.4.2007) by virtue of The Income Tax (Qualifying Child Care) Regulations 2007 (S.I. 2007/849), regs. 1, **2(4)**
- F27** S. 318C(5)(d) and following word omitted (6.4.2011) by virtue of The Income Tax (Qualifying Child Care) Regulations 2011 (S.I. 2011/775), regs. 1, **3(4)(a)**
- F28** S. 318C(5)(d)(e) inserted (21.11.2009) by The Income Tax (Qualifying Child Care) (No. 2) Regulations 2009 (S.I. 2009/2888), regs. 1(2), **2(4)**
- F29** S. 318C(5)(f) and preceding word inserted (6.4.2011) by The Income Tax (Qualifying Child Care) Regulations 2011 (S.I. 2011/775), regs. 1, **3(4)(b)**
- F30** Word in s. 318C(7)(a) omitted (6.4.2007) by virtue of The Income Tax (Qualifying Child Care) Regulations 2007 (S.I. 2007/849), regs. 1, **2(5)(a)**
- F31** S. 318C(7)(c) and preceding word added (6.4.2005) by The Section 318C Income Tax (Earnings and Pensions) Act 2003 (Amendment) Regulations 2005 (S.I. 2005/770), regs. 1(1), **5**
- F32** Word in s. 318C(7)(b) omitted (18.7.2009) by virtue of The Income Tax (Qualifying Child Care) Regulations 2009 (S.I. 2009/1544), regs. 1(2), **3(4)(a)**
- F33** Words in s. 318C(7)(c) omitted (18.7.2009) by virtue of The Income Tax (Qualifying Child Care) Regulations 2009 (S.I. 2009/1544), regs. 1(2), **3(4)(b)**
- F34** Words in s. 318C(7)(c) inserted (6.4.2007) by The Income Tax (Qualifying Child Care) Regulations 2007 (S.I. 2007/849), regs. 1, **2(5)(b)**
- F35** S. 318C(7)(d) and preceding word added (18.7.2009) by The Income Tax (Qualifying Child Care) Regulations 2009 (S.I. 2009/1544), regs. 1(2), **3(4)(c)**
- F36** Words in s. 318C(7)(d) substituted (21.11.2009) by The Income Tax (Qualifying Child Care) (No. 2) Regulations 2009 (S.I. 2009/2888), regs. 1(2), **2(5)**
- F37** Words in s. 318C(7)(d) omitted (6.4.2011) by virtue of The Income Tax (Qualifying Child Care) Regulations 2011 (S.I. 2011/775), regs. 1, **3(5)**
- F38** Words in s. 318C(8) substituted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **144(a)**
- F39** Words in s. 318C(8) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **144(b)**
- F40** S. 318C(9) inserted (6.4.2005) by The Section 318C Income Tax (Earnings and Pensions) Act 2003 (Amendment) Regulations 2005 (S.I. 2005/770), regs. 1(1), **6**

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- F41** S. 318C(10)(11) added (21.11.2009) by The Income Tax (Qualifying Child Care) (No. 2) Regulations 2009 (S.I. 2009/2888), regs. 1(2), **2(6)**
- F42** S. 318C(11) omitted (6.4.2011) by virtue of The Income Tax (Qualifying Child Care) Regulations 2011 (S.I. 2011/775), regs. 1, **3(6)**

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