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Changes to legislation: Planning and Compulsory Purchase Act 2004, SCHEDULE 8 is up to date with all changes known to be in force on or before 06 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 8

Section 119

TRANSITIONAL PROVISIONS: PARTS 1 AND 2

Development plan

- 1 (1) During the transitional period a reference in an enactment mentioned in section 38(7) above to the development plan for an area in England is a reference to—
 - (a) the RSS for the region in which the area is situated or the spatial development strategy for an area in Greater London, and
 - (b) the development plan for the area for the purposes of section 27 or 54 of the principal Act.
 - (2) The transitional period is the period starting with the commencement of section 38 and ending on whichever is the earlier of—
 - (a) the end of the period of three years;
 - (b) the day when in relation to an old policy, a new policy which expressly replaces it is published, adopted or approved.
 - (3) But the Secretary of State may direct that for the purposes of such policies as are specified in the direction sub-paragraph (2)(a) does not apply.
 - (4) An old policy is a policy which (immediately before the commencement of section 38) forms part of a development plan for the purposes of section 27 or 54 of the principal Act.
 - (5) A new policy is a policy which is contained in—
 - (a) a revision of an RSS;
 - (b) an alteration or replacement of the spatial development strategy;
 - (c) a development plan document.
 - [F1(d) a neighbourhood development plan.]
 - (6) But—
 - (a) an old policy contained in a structure plan is replaced only by a new policy contained in a revision to an RSS;
 - (b) an old policy contained in a waste local plan or a minerals local plan is replaced in relation to any area of a county council for which there is a district council only by a new policy contained in a development plan document which is prepared in accordance with a minerals and waste development scheme.
 - (7) A new policy is published if it is contained in—
 - (a) a revision of an RSS published by the Secretary of State under section 9(6);
 - (b) an alteration or replacement of the Mayor of London's spatial development strategy published in pursuance of section 337 of the Greater London Authority Act 1999 (c. 29).

- a neighbourhood development plan published under section 38B(5) of the $I^{F2}(c)$ principal Act.]
- (8) A new policy is adopted or approved if it is contained in a development plan document which is adopted or approved for the purposes of Part 2.
- (9) A minerals and waste development scheme is a scheme prepared in accordance with section 16.
- (10) The development plan mentioned in sub-paragraph (1)(b) does not include a street authorisation map which continued to be treated as having been adopted as a local plan by virtue of paragraph 4 of Part 3 of Schedule 2 to the principal Act.

Textual Amendments

- Sch. 8 para. 1(5)(d) inserted (28.3.2012) by The Localism Act 2011 (Consequential Amendments) Order 2012 (S.I. 2012/961), art. 1(2), Sch. 3 para. 1(2)(a)
- Sch. 8 para. 1(7)(c) inserted (28.3.2012) by The Localism Act 2011 (Consequential Amendments) Order F2 2012 (S.I. 2012/961), art. 1(2), Sch. 3 para. 1(2)(b)

Commencement Information

Sch. 8 para. 1 in force at 28.9.2004 for E. by S.I. 2004/2202, art. 2(j)

Structure plans

- 2 (1) This paragraph applies to proposals for the alteration or replacement of a structure plan for the area of a local planning authority.
 - (2) If before the commencement of Part 1 of this Act the authority have complied with section 33(2) of the principal Act (making copies of proposals and the explanatory memorandum available for inspection) the provisions of Chapter 2 of Part 2 of the principal Act continue to have effect in relation to the proposals.
 - (3) In any other case
 - the authority must take no further step in relation to the proposals; (a)
 - the proposals have no effect.
 - (4) If the proposals are adopted or approved by virtue of sub-paragraph (2) above, paragraph 1 of this Schedule applies to the policies contained in the proposals as if
 - they were policies contained in a development plan within the meaning of section 54 of the principal Act;
 - (b) the date of commencement of section 38 is the date when the proposals are adopted or approved (as the case may be).

Commencement Information

Sch. 8 para. 2 in force at 28.9.2004 for E. by S.I. 2004/2202, art. 2(j)

Unitary development plan

3 (1) This paragraph applies to proposals for the alteration or replacement of a unitary development plan for the area of a local planning authority.

- (2) If before the relevant date the authority have not complied with section 13(2) of the principal Act (making copies of the proposals available for inspection)—
 - (a) they must take no further step in relation to the proposals;
 - (b) the proposals have no effect.
- (3) In any other case paragraph 4 or 5 below applies.

Commencement Information

- I3 Sch. 8 para. 3 in force at 28.9.2004 for E. by S.I. 2004/2202, art. 2(j)
- 4 (1) This paragraph applies if—
 - (a) before the relevant date the local planning authority is not required to cause an inquiry or other hearing to be held by virtue of section 16(1) of the principal Act (inquiry must be held if objections made), or
 - (b) before the commencement of Part 2 of this Act a person is appointed under that section to hold an inquiry or other hearing.
 - (2) If this paragraph applies the provisions of Chapter 1 of Part 2 of the principal Act continue to have effect in relation to the proposals.
 - (3) The relevant date is whichever is the later of—
 - (a) the end of any period prescribed by regulations under section 26 of the principal Act for the making of objections to the proposals;
 - (b) the commencement of Part 2 of this Act.

Commencement Information

- I4 Sch. 8 para. 4 in force at 6.8.2004 for specified purposes by S.I. 2004/2097, art. 2
- I5 Sch. 8 para. 4 in force at 28.9.2004 for E. so far as not already in force by S.I. 2004/2202, art. 2(j)
- 5 (1) If paragraph 4 does not apply the provisions of Chapter 1 of Part 2 of the principal Act continue to have effect in relation to the proposals subject to the modifications in sub-paragraphs (2) to (5) below.
 - (2) If before the commencement of Part 2 of this Act the local planning authority have not published revised proposals in pursuance of regulations under section 26 of the principal Act—
 - (a) any provision of the regulations relating to publication of revised proposals must be ignored,
 - (b) the authority must comply again with section 13(2) of the principal Act.
 - (3) If before the commencement of Part 2 of this Act the local planning authority have published revised proposals in pursuance of regulations under section 26 of the principal Act the authority must comply again with section 13(2) of that Act.
 - (4) Any provision of regulations under section 26 of the principal Act which permits the local planning authority to modify proposals after an inquiry or other hearing has been held under section 16 of that Act must be ignored.

(5) If such an inquiry or other hearing is held the authority must adopt the proposals in accordance with the recommendations of the person appointed to hold the inquiry or other hearing.

Commencement Information

- I6 Sch. 8 para. 5 in force at 28.9.2004 for E. by S.I. 2004/2202, art. 2(j)
- If proposals are adopted or approved in pursuance of paragraph 4 or 5 above paragraph 1 of this Schedule applies to the policies contained in the proposals as if—
 - (a) they were policies contained in a development plan for the purposes of section 27 of the principal Act;
 - (b) the date of commencement of section 38 is the date when the proposals are adopted or approved.

Commencement Information

- I7 Sch. 8 para. 6 in force at 28.9.2004 for E. by S.I. 2004/2202, art. 2(j)
- 7 (1) This paragraph applies if at the date of commencement of Part 1 a local planning authority have not prepared a unitary development plan in pursuance of section 12 of the principal Act.
 - (2) References in paragraphs 3 to 6 to proposals for the alteration or replacement of a plan must be construed as references to the plan.

Commencement Information

I8 Sch. 8 para. 7 in force at 28.9.2004 for E. by S.I. 2004/2202, art. 2(j)

Local plan

- 8 (1) This paragraph applies to proposals for the alteration or replacement of a local plan for the area of a local planning authority.
 - (2) If before the commencement of Part 2 of this Act the authority have not complied with section 40(2) of the principal Act (making copies of the proposals available for inspection)—
 - (a) they must take no further step in relation to the proposals;
 - (b) the proposals have no effect.
 - (3) In any other case paragraph 9 or 10 below applies.

Commencement Information

- I9 Sch. 8 para. 8 in force at 28.9.2004 for E. by S.I. 2004/2202, art. 2(j)
- 9 (1) This paragraph applies if—

- (a) before the relevant date the local planning authority is not required to cause an inquiry or other hearing to be held by virtue of section 42(1) of the principal Act (inquiry must be held if objections made), or
- (b) before the commencement of Part 2 of this Act a person is appointed under that section to hold an inquiry or other hearing.
- (2) If this paragraph applies the provisions of Chapter 2 of Part 2 of the principal Act continue to have effect in relation to the proposals.
- (3) The relevant date is whichever is the later of—
 - (a) the end of any period prescribed by regulations under section 53 of the principal Act for the making of objections to the proposals;
 - (b) the commencement of Part 2 of this Act.

Commencement Information

- I10 Sch. 8 para. 9 in force at 6.8.2004 for specified purposes by S.I. 2004/2097, art. 2
- 111 Sch. 8 para. 9 in force at 28.9.2004 for E. so far as not already in force by S.I. 2004/2202, art. 2(j)
- 10 (1) If paragraph 9 does not apply the provisions of Chapter 2 of Part 2 of the principal Act continue to have effect in relation to the proposals subject to the modifications in sub-paragraphs (2) to (5) below.
 - (2) If before the commencement of Part 2 of this Act the local planning authority have not published revised proposals in pursuance of regulations under section 53 of the principal Act—
 - (a) any provision of the regulations relating to publication of revised proposals must be ignored,
 - (b) the authority must comply again with section 40(2) of the principal Act.
 - (3) If before the commencement of Part 2 of this Act the local planning authority have published revised proposals in pursuance of regulations under section 53 of the principal Act the authority must comply again with section 40(2) of that Act.
 - (4) Any provision of regulations under section 53 of the principal Act which permits the local planning authority to modify proposals after an inquiry or other hearing has been held under section 42 of that Act must be ignored.
 - (5) If such an inquiry or other hearing is held the authority must adopt the proposals in accordance with the recommendations of the person appointed to hold the inquiry or other hearing.

Commencement Information

I12 Sch. 8 para. 10 in force at 28.9.2004 for E. by S.I. 2004/2202, art. 2(j)

- 11 (1) This paragraph applies if the Secretary of State thinks—
 - (a) that the conformity requirement is likely to give rise to inconsistency between the proposals and relevant policies or guidance, and
 - (b) that it is necessary or expedient to avoid such inconsistency.
 - (2) The Secretary of State may direct that to the extent specified in the direction the conformity requirement must be ignored.

- (3) The Secretary of State must give reasons for the direction.
- (4) The conformity requirement is—
 - (a) the requirement under section 36(4) of the principal Act that the local plan is to be in general conformity with the structure plan;
 - (b) the prohibition under section 43(3) of the principal Act on the adoption of proposals for a local plan or for its alteration or replacement which do not conform generally with the structure plan.
- (5) Relevant policies and guidance are—
 - (a) national policies;
 - (b) advice contained in guidance;
 - (c) policies in the RSS.

Commencement Information

I13 Sch. 8 para. 11 in force at 28.9.2004 for E. by S.I. 2004/2202, art. 2(j)

- If proposals are adopted or approved in pursuance of paragraphs 9 to 11 above paragraph 1 of this Schedule applies to the policies contained in the proposals as if—
 - (a) they were policies contained in a development plan for the purposes of section 54 of the principal Act;
 - (b) the date of commencement of section 38 is the date when the proposals are adopted or approved.

Commencement Information

I14 Sch. 8 para. 12 in force at 28.9.2004 for E. by S.I. 2004/2202, art. 2(j)

- 13 (1) This paragraph applies if at the date of commencement of Part 1 a local planning authority have not prepared a local plan in pursuance of section 36 of the principal Act.
 - (2) References in paragraphs 8 to 12 to proposals for the alteration or replacement of a plan must be construed as references to the plan.

Commencement Information

I15 Sch. 8 para. 13 in force at 28.9.2004 for E. by S.I. 2004/2202, art. 2(j)

Minerals and waste local plans

Paragraphs 8 to 13 above apply to a minerals local plan and a waste local plan as they apply to a local plan and references in those paragraphs to a local planning authority must be construed as including references to a mineral planning authority and an authority who are entitled to prepare a waste local plan.

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Commencement Information

I16 Sch. 8 para. 14 in force at 28.9.2004 for E. by S.I. 2004/2202, art. 2(j)

Schemes

- 15 (1) This paragraph applies to—
 - (a) the local development scheme which a local planning authority are required to prepare and maintain under section 15 of this Act;
 - (b) the minerals and waste development scheme which a county council are required to prepare and maintain for any part of their area for which there is a district council.
 - (2) During the transitional period the local planning authority or county council (as the case may be) must include in the scheme as a development plan document—
 - (a) any plan or document which relates to an old policy (for the purposes of paragraph 1 above) which has not been replaced by a new policy;
 - (b) any proposals adopted or approved by virtue of paragraphs 3 to 12 above.

Commencement Information

II7 Sch. 8 para. 15 in force at 28.9.2004 for E. by S.I. 2004/2202, art. 2(j)

Savings

- 16 (1) The repeal by this Act of paragraphs 1 to 4 of Schedule 13 to the principal Act does not affect anything which is required or permitted to be done for the purposes of Chapter 2 of Part 6 of the principal Act during any time when a plan mentioned in any of those paragraphs continues to form part of the development plan by virtue of—
 - (a) paragraph 1 of this Schedule, or
 - (b) that paragraph as applied by any other provision of this Schedule.
 - (2) References to a plan mentioned in any of paragraphs 1 to 4 include any proposal for the alteration or replacement of the plan.
 - (3) The development plan is the development plan for the purposes of section 27 or 54 of the principal Act.

Commencement Information

I18 Sch. 8 para. 16 in force at 28.9.2004 for E. by S.I. 2004/2202, art. 2(j)

Regulations and orders

- 17 (1) The Secretary of State may by regulations make provision for giving full effect to this Schedule.
 - (2) The regulations may, in particular—
 - (a) make such provision as he thinks is necessary in consequence of this Schedule;

- (b) make provision to supplement any modifications of the principal Act required by this Schedule.
- (3) The Secretary of State may by order make such provision as he thinks is necessary in consequence of anything done under or by virtue of this Schedule.
- (4) Provision under sub-paragraph (3) includes provisions corresponding to that which could be made by order under Schedule 2 of the principal Act.

Commencement Information

- 119 Sch. 8 para. 17 in force at 6.8.2004 for specified purposes by S.I. 2004/2097, art. 2
- 120 Sch. 8 para. 17 in force at 28.9.2004 for E. so far as not already in force by S.I. 2004/2202, art. 2(j)
- The Secretary of State may by regulations make provision—
 - (a) for treating anything done or purported to have been done for the purposes of Part 2 before the commencement of that Part as having been done after that commencement;
 - (b) for disregarding any requirement of section 19 in respect of anything done or purported to have been done for the purposes of any other provision of Part 2.

Commencement Information

- I21 Sch. 8 para. 18 in force at 6.8.2004 for specified purposes by S.I. 2004/2097, art. 2
- 122 Sch. 8 para. 18 in force at 28.9.2004 for E. so far as not already in force by S.I. 2004/2202, art. 2(j)

Interpretation

- 19 (1) References to section 27 of the principal Act must be construed subject to section 28(3)(a) and (c) of that Act.
 - (2) RSS must be construed in accordance with Part 1 of this Act.
 - (3) Development plan document must be construed in accordance with Part 2 of this Act.

Commencement Information

I23 Sch. 8 para. 19 in force at 28.9.2004 for E. by S.I. 2004/2202, art. 2(j)

Changes to legislation:

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View outstanding changes

Changes and effects yet to be applied to:

- specified provision(s) amendment to earlier commencing SI 2006/1061 art. 4 by S.I.
 2010/321 art. 3
- specified provision(s) amendment to earlier commencing SI 2007/1369 art. 3 by S.I. 2010/321 art. 4

Changes and effects yet to be applied to the whole Act associated Parts and Chapters: Whole provisions yet to be inserted into this Act (including any effects on those

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s 15A-15I H and cross-heading substituted for s 15-37 and cross-heading by 2023

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    s. 15A-15LH and cross-heading substituted for s. 15-37 and cross-heading by 2023
    c. 55 Sch. 7
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- s. 38(2A) substituted for s. 38(2)(3) by 2023 c. 55 s. 92(3)
- s. 38(5A)-(5C) inserted by 2023 c. 55 s. 93(2)
- s. 38(9A) substituted for s. 38(9) by 2023 c. 55 s. 92(4)
- s. 38(9B) inserted by 2023 c. 55 s. 93(4)
- s. 38B(A1) inserted by 2023 c. 55 s. 98(2)
- s. 38B(2B)(2C) inserted by 2023 c. 55 s. 98(3)
- s. 38C(5)(d)(i)-(iii) and word substituted for words by 2023 c. 55 s. 99(2)
- s. 39(1)(ba) inserted by 2023 c. 55 Sch. 8 para. 21(b)
- s. 39A and cross-heading inserted by 2023 c. 55 s. 100
- s. 45(A1) inserted by 2011 c. 20 Sch. 8 para. 14(2)
- s. 113(1)(bb)-(bd) inserted by 2023 c. 55 Sch. 8 para. 23(2)(a)
- s. 113(9)(f)(g) inserted by 2023 c. 55 Sch. 8 para. 23(3)(c)
- s. 113(13) inserted by 2023 c. 55 Sch. 8 para. 23(5)
- s. 122(5)(za)(zb) inserted by 2023 c. 55 Sch. 8 para. 25(a)
- Sch. A2 para. 11(2)(da) inserted by 2023 c. 55 s. 99(3)(b)
- Sch. A1 para. 2(1A) inserted by 2023 c. 55 Sch. 8 para. 26(3)(b)
- Sch. A1 para. 6(1A) inserted by 2023 c. 55 Sch. 8 para. 26(7)(b)
- Sch. A1 para. 7ZC(1A) inserted by 2023 c. 55 Sch. 8 para. 26(11)(b)
- Sch. A1 para. 7C(1A) inserted by 2023 c. 55 Sch. 8 para. 26(14)(b)
- Sch. A1 para. 8(7A) inserted by 2023 c. 55 Sch. 8 para. 26(16)(g)
- Sch. A1 para. 1 substituted by 2023 c. 55 Sch. 8 para. 26(2)
- Sch. A1 para. 2(4) substituted by 2023 c. 55 Sch. 8 para. 26(3)(c)
- Sch. A1 para. 3(1) substituted by 2023 c. 55 Sch. 8 para. 26(4)(a)
- Sch. A1 para. 5 substituted by 2023 c. 55 Sch. 8 para. 26(6)
- Sch. A1 para. 6(4) substituted by 2023 c. 55 Sch. 8 para. 26(7)(c)
- Sch. A1 para. 7(1) substituted by 2023 c. 55 Sch. 8 para. 26(8)(a)
- Sch. A1 para. 7ZB substituted by 2023 c. 55 Sch. 8 para. 26(10)
- Sch. A1 para. 7ZC(4) substituted by 2023 c. 55 Sch. 8 para. 26(11)(c)
- Sch. A1 para. 7ZD(1) substituted by 2023 c. 55 Sch. 8 para. 26(12)(a)
- Sch. A1 para. 7B substituted by 2023 c. 55 Sch. 8 para. 26(13)
- Sch. A1 para. 7C(4) substituted by 2023 c. 55 Sch. 8 para. 26(14)(c)
- Sch. A1 para. 7D(1) substituted by 2023 c. 55 Sch. 8 para. 26(15)(a)
- Sch. A1 para. 10 substituted by 2023 c. 55 Sch. 8 para. 26(18)
- Sch. A2 para. 11(2)(ca) substituted for Sch. A2 para. 11(2)(c) by 2023 c. 55 s. 99(3)
 (a)
- Sch. A1 para. 7ZA word substituted by 2023 c. 55 Sch. 8 para. 26(9)
- Sch. A1 para. 8(2)(a) word substituted by 2023 c. 55 Sch. 8 para. 26(16)(b)(ii)

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Sch. A1 para. 8(3)(b) word substituted by 2023 c. 55 Sch. 8 para. 26(16)(c)
Sch. A1 para. 8(6) word substituted by 2023 c. 55 Sch. 8 para. 26(16)(e)
Sch. A1 para. 8(7) word substituted by 2023 c. 55 Sch. 8 para. 26(16)(f)(iii)
Sch. A1 para. 9 word substituted by 2023 c. 55 Sch. 8 para. 26(17)
Sch. A1 para. 13(1) word substituted by 2023 c. 55 Sch. 8 para. 26(20)(a)(iii)
Sch. A1 para. 13(2) word substituted by 2023 c. 55 Sch. 8 para. 26(20)(b)
Sch. A1 para. 13(3) word substituted by 2023 c. 55 Sch. 8 para. 26(20)(c)
Sch. A1 para. 13(1) words inserted by 2023 c. 55 Sch. 8 para. 26(20)(a)(ii)
Sch. A1 para. 3(3)(a) words omitted by 2023 c. 55 Sch. 8 para. 26(4)(b)
Sch. A1 para. 7(3)(a) words omitted by 2023 c. 55 Sch. 8 para. 26(8)(b)
Sch. A1 para. 7ZD(3)(a) words omitted by 2023 c. 55 Sch. 8 para. 26(12)(b)
Sch. A1 para. 7D(3)(a) words omitted by 2023 c. 55 Sch. 8 para. 26(15)(b)
Sch. A1 para. 2(1) words substituted by 2023 c. 55 Sch. 8 para. 26(3)(a)
Sch. A1 para. 3(4) words substituted by 2023 c. 55 Sch. 8 para. 26(4)(c)(i)
Sch. A1 para. 3(4) words substituted by 2023 c. 55 Sch. 8 para. 26(4)(c)(ii)
Sch. A1 para. 4 words substituted by 2023 c. 55 Sch. 8 para. 26(5)
Sch. A1 para. 6(1) words substituted by 2023 c. 55 Sch. 8 para. 26(7)(a)
Sch. A1 para. 7(4) words substituted by 2023 c. 55 Sch. 8 para. 26(8)(c)(i)
Sch. A1 para. 7(4) words substituted by 2023 c. 55 Sch. 8 para. 26(8)(c)(ii)
Sch. A1 para. 7ZC(1) words substituted by 2023 c. 55 Sch. 8 para. 26(11)(a)
Sch. A1 para. 7ZD(4) words substituted by 2023 c. 55 Sch. 8 para. 26(12)(c)(i)
Sch. A1 para. 7ZD(4) words substituted by 2023 c. 55 Sch. 8 para. 26(12)(c)(ii)
Sch. A1 para. 7C(1) words substituted by 2023 c. 55 Sch. 8 para. 26(14)(a)
Sch. A1 para. 7D(4) words substituted by 2023 c. 55 Sch. 8 para. 26(15)(c)(i)
Sch. A1 para. 7D(4) words substituted by 2023 c. 55 Sch. 8 para. 26(15)(c)(ii)
Sch. A1 para. 8(1) words substituted by 2023 c. 55 Sch. 8 para. 26(16)(a)(i)
Sch. A1 para. 8(1) words substituted by 2023 c. 55 Sch. 8 para. 26(16)(a)(ii)
Sch. A1 para. 8(2) words substituted by 2023 c. 55 Sch. 8 para. 26(16)(b)(i)
Sch. A1 para. 8(2)(a) words substituted by 2023 c. 55 Sch. 8 para. 26(16)(b)(iii)
Sch. A1 para. 8(5) words substituted by 2023 c. 55 Sch. 8 para. 26(16)(d)(i)
Sch. A1 para. 8(5) words substituted by 2023 c. 55 Sch. 8 para. 26(16)(d)(ii)
Sch. A1 para. 8(5) words substituted by 2023 c. 55 Sch. 8 para. 26(16)(d)(iii)
Sch. A1 para. 8(7)(a) words substituted by 2023 c. 55 Sch. 8 para. 26(16)(f)(i)
Sch. A1 para. 8(7)(b) words substituted by 2023 c. 55 Sch. 8 para. 26(16)(f)(ii)
Sch. A1 para. 11 words substituted by 2023 c. 55 Sch. 8 para. 26(19)
Sch. A1 para. 13(1) words substituted by 2023 c. 55 Sch. 8 para. 26(20)(a)(i)
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