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STATUTORY INSTRUMENTS

1985 No. 1604

TERMS AND CONDITIONS OF EMPLOYMENT

The Statutory Sick Pay (Medical Evidence) Regulations 1985

<i>Made</i>	- - - -	<i>22nd October 1985</i>
<i>Laid before Parliament</i>		<i>29th October 1985</i>
<i>Coming into Operation</i>		<i>6th April 1986</i>

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 17(2A) of the Social Security and Housing Benefits Act 1982⁽¹⁾, and of all other powers enabling him in that behalf, by this instrument, which contains only provisions consequential upon section 20 of the Social Security Act 1985 and regulations made under the aforesaid section 17(2A), makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Statutory Sick Pay (Medical Evidence) Regulations 1985 and shall come into operation on 6th April 1986.

(2) In these regulations, unless the context otherwise requires—

[^{F1}“the 1992 Act” means the Social Security Administration Act 1992;]

[^{F2}“healthcare professional” means a person, not being the patient, who is—

- (a) a registered medical practitioner;
- (b) a registered nurse;
- (c) a registered occupational therapist or registered physiotherapist;
- (d) a registered pharmacist within the meaning of article 3 of the Pharmacy Order 2010;]

“signature” means, in relation to a statement given in accordance with these regulations, the name by which the person giving that statement is usually known (any name other than the surname being either in full or otherwise indicated) written by that person in his own handwriting;^{F3} ...

^{F4}(3)

<p>F1 Words in reg. 1(2) substituted (6.4.2010) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2010 (S.I. 2010/137), regs. 1(2), 3(2)</p>

⁽¹⁾ section 17(2A) was inserted by the Social Security Act 1985 (c.53), section 20.

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- F2** Words in reg. 1(2) inserted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(2)**
- F3** Words in reg. 1(2) omitted (6.4.2022) by virtue of The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2022 (S.I. 2022/298), regs. 1(2), **3(2)**
- F4** Reg. 1(3) revoked (9.3.1992) by The Social Security (Miscellaneous Provisions) Amendment Regulations 1992 (S.I. 1992/247), regs. 1(1), **6(2)**

Medical information

2.—^{F5}(1) Medical information required under section 14(1) of the 1992 Act relating to incapacity for work shall be provided either—

- (a) in the form of a statement given by a ^{F6}healthcare professional] in accordance with the rules set out in Part 1 of Schedule 1 to these Regulations; or
- (b) by such other means as may be sufficient in the circumstances of any particular case.]

(2) An employee shall not be required under ^{F7}section 14(1) of the 1992 Act] to provide medical information in respect of the first 7 days in any spell of incapacity for work; and for this purpose “spell of incapacity” means a continuous period of incapacity for work which is immediately preceded by a day on which the claimant either worked or was not incapable of work.

- F5** Reg. 2(1) substituted (6.4.2010) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2010 (S.I. 2010/137), regs. 1(2), **3(3)(a)**
- F6** Words in reg. 2(1)(a) substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(3)**
- F7** Words in reg. 2(2) substituted (6.4.2010) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2010 (S.I. 2010/137), regs. 1(2), **3(3)(b)**

Modifications etc. (not altering text)

- C1** Reg. 2(2) modified (17.12.2021) by The Statutory Sick Pay (Medical Evidence) Regulations 2021 (S.I. 2021/1453), regs. 1(2), **2**

Signed by authority of the Secretary of State for Social Services.

Tony Newton
Minister of State
Department of Health and Social Security

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SCHEDULE 1

Regulation 1(3)

[^{F8}PART 1

RULES

F8 Sch. 1 substituted (6.4.2010) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2010 (S.I. 2010/137), regs. 1(2), **3(4)**

1. In these rules, unless the context otherwise requires—

“assessment” means either a consultation between a patient and a [^{F9}healthcare professional] which takes place in person or by telephone or a consideration by a [^{F9}healthcare professional] of a written report by another [^{F9}healthcare professional] or other health [^{F10}...professional];

“condition” means a specific disease or bodily or mental disability;

^{F11} ...

“[^{F12}other health professional]” means a person (other than a [^{F13}healthcare professional] and not being the patient) who is^{F14} ..., a registered midwife, ^{F15} ... or a member of any profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002;

“patient” means the person in respect of whom a statement is given in accordance with these rules.

F9 Words in Sch. 1 rule 1 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(4)(a)(i)**

F10 Word in Sch. 1 rule 1 omitted (1.7.2022) by virtue of The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(4)(a)(ii)**

F11 Words in Sch. 1 rule 1 omitted (1.7.2022) by virtue of The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(4)(b)**

F12 Words in Sch. 1 rule 1 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(4)(c)(i)**

F13 Words in Sch. 1 rule 1 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(4)(c)(ii)**

F14 Words in Sch. 1 rule 1 omitted (1.7.2022) by virtue of The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(4)(c)(iii)**

F15 Words in Sch. 1 rule 1 omitted (1.7.2022) by virtue of The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(4)(c)(iv)**

2. Where a [^{F16}healthcare professional] issues a statement to a patient in accordance with an obligation arising under a contract, agreement or arrangement under Part 4 of the National Health Service Act 2006 or Part 4 of the National Health Service (Wales) Act 2006 or Part 1 of the National

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Health Service (Scotland) Act 1978 the [F17]healthcare professional's] statement shall be in a form set out at Part 2 [F18]or Part 2A] of this Schedule^{F19}....

- F16** Words in Sch. 1 rule 2 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(5)(a)**
- F17** Words in Sch. 1 rule 2 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(5)(b)**
- F18** Words in Sch. 1 Pt. 1 rule 2 inserted (6.4.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2022 (S.I. 2022/298), regs. 1(2), **3(3)(a)**
- F19** Words in Sch. 1 Pt. 1 rule 2 omitted (6.4.2022) by virtue of The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2022 (S.I. 2022/298), regs. 1(2), **3(3)(b)**

3. Where a [F20]healthcare professional] issues a statement in any case other than in accordance with rule 2, the [F21]healthcare professional's] statement shall be in the form set out in Part 2 [F22]or Part 2A] of this Schedule or in a form to like effect^{F23}....

- F20** Words in Sch. 1 rule 3 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(6)(a)**
- F21** Words in Sch. 1 rule 3 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(6)(b)**
- F22** Words in Sch. 1 Pt. 1 rule 3 inserted (6.4.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2022 (S.I. 2022/298), regs. 1(2), **3(4)(a)**
- F23** Words in Sch. 1 Pt. 1 rule 3 omitted (6.4.2022) by virtue of The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2022 (S.I. 2022/298), regs. 1(2), **3(4)(b)**

4. A [F24]healthcare professional's] statement must be based on an assessment made by that [F25]healthcare professional].

- F24** Words in Sch. 1 rule 4 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(7)(a)**
- F25** Words in Sch. 1 rule 4 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(7)(b)**

5. A [F26]healthcare professional's] statement ^{F27}...shall contain the following particulars—
- (a) the patient's name;
 - (b) the date of the assessment (whether by consultation or consideration of a report as the case may be) on which the [F26]healthcare professional's] statement is based;
 - (c) the condition in respect of which the [F28]healthcare professional] advises the patient they are not fit for work;
 - (d) a statement, where the [F28]healthcare professional] considers it appropriate, that the patient may be fit for work;
 - (e) a statement that the [F28]healthcare professional] will or, as the case may be will not, need to assess the patient's fitness for work again;
 - (f) the date on which the [F26]healthcare professional's] statement is given;
 - (g) the address of the doctor[F29;][F30]and]

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[^{F31}(h) the name of the [^{F28}healthcare professional] (whether in the form of a signature or [^{F32}otherwise); and]]

[^{F33}(i) the profession of the healthcare professional.]

F34
...

- F26** Words in Sch. 1 rule 5 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(8)(a)**
- F27** Words in Sch. 1 Pt. 1 rule 5 omitted (6.4.2022) by virtue of The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2022 (S.I. 2022/298), regs. 1(2), **3(5)(a)**
- F28** Words in Sch. 1 rule 5 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(8)(b)**
- F29** Sch. 1 Pt. 1 rule 5(g): semi-colon substituted for comma (6.4.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2022 (S.I. 2022/298), regs. 1(2), **3(5)(b)**
- F30** Word in Sch. 1 Pt. 1 rule 5(g) inserted (6.4.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2022 (S.I. 2022/298), regs. 1(2), **3(5)(b)**
- F31** Sch. 1 Pt. 1 rule 5(h) inserted (6.4.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2022 (S.I. 2022/298), regs. 1(2), **3(5)(c)**
- F32** Words in Sch. 1 rule 5(h) substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(8)(c)**
- F33** Sch. 1 rule 5(i) inserted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(8)(d)**
- F34** Words in Sch. 1 Pt. 1 rule 5 omitted (6.4.2022) by virtue of The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2022 (S.I. 2022/298), regs. 1(2), **3(5)(d)**

[^{F35}**5A.** Where the healthcare professional’s statement is in the form set out in Part 2 of this Schedule—

- (a) the healthcare professional’s name shall, irrespective of their profession, be recorded next to the words “doctor’s signature”;
- (b) the healthcare professional’s address shall, irrespective of their profession, be recorded next to the words “doctor’s address”; and
- (c) the healthcare professional shall record their profession within the statement in such place as appears to them to be appropriate.]

- F35** Sch. 1 rule 5A inserted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(9)**

6. Subject to rule 8, the condition in respect of which the [^{F36}healthcare professional] is advising the patient is not fit for work or, as the case may be, which has caused the patient’s absence from work shall be specified as precisely as the [^{F37}healthcare professional’s] knowledge of the patient’s condition at the time of the assessment permits.

- F36** Words in Sch. 1 rule 6 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(10)(a)**

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F37 Words in Sch. 1 rule 6 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(10)(b)**

7. Where a [^{F38}healthcare professional] considers that a patient may be fit for work the [^{F38}healthcare professional] shall state the reasons for that advice and where this is considered appropriate, the arrangements which the patient might make, with their employer's agreement, to return to work.

F38 Words in Sch. 1 rule 7 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(11)**

8. The condition may be specified less precisely where, in the [^{F39}healthcare professional's] opinion, disclosure of the precise condition would be prejudicial to the patient's well-being, or to the patient's position with their employer.

F39 Words in Sch. 1 rule 8 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(12)**

9. A [^{F40}healthcare professional's] statement may be given on a date after the date of the assessment on which it is based, however no further statement shall be furnished in respect of that assessment other than a [^{F40}healthcare professional's] statement by way of replacement of an original which has been lost, in which case it shall be clearly marked "duplicate".

F40 Words in Sch. 1 rule 9 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(13)**

10. Where, in the [^{F41}healthcare professional's] opinion, the patient will become fit for work on a day not later than 14 days after the date of the assessment on which the doctor's statement is based, the [^{F41}healthcare professional's] statement shall specify that day.

F41 Words in Sch. 1 rule 10 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(14)**

11. Subject to rules 12 and 13, the [^{F42}healthcare professional's] statement shall specify the minimum period for which, in the [^{F42}healthcare professional's] opinion, the patient will not be fit for work or, as the case may be, for which they may be fit for work.

F42 Words in Sch. 1 rule 11 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(15)**

12. The period specified shall begin on the date of the assessment on which the [^{F43}healthcare professional's] statement is based and shall not exceed 3 months unless the patient has, on the advice of a [^{F44}healthcare professional], refrained from work for at least 6 months immediately preceding that date.

F43 Words in Sch. 1 rule 12 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(16)(a)**

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F44 Words in Sch. 1 rule 12 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(16)(b)**

13. Where—

- (a) the patient has been advised by a [^{F45}healthcare professional] that they are not fit for work and, in consequence, has refrained from work for at least 6 months immediately preceding the date of the assessment on which the [^{F46}healthcare professional’s] statement is based; and
- (b) in the [^{F46}healthcare professional’s] opinion, the patient will not be fit for work for the foreseeable future,

instead of specifying a period, the [^{F45}healthcare professional] may, having regard to the circumstances of the particular case, enter, after the words “case for”, the words “an indefinite period”.

F45 Words in Sch. 1 rule 13 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(17)(a)**

F46 Words in Sch. 1 rule 13 substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(17)(b)**

PART 2

FORM OF [^{F47}healthcare professional’s] STATEMENT]

F47 Words in Sch. 1 Pt. 2 heading substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(18)(a)**

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STATEMENT OF FITNESS FOR WORK FOR SOCIAL SECURITY OR STATUTORY SICK PAY

Patient's name

Mr, Mrs, Miss, Ms

I assessed your case on:

/ /

and, because of the following condition(s):

I advise you that:

- you are not fit for work.
 you may be fit for work taking account of the following advice:

If available, and with your employer's agreement, you may benefit from:

- a phased return to work amended duties
 altered hours workplace adaptations

Comments, including functional effects of your condition(s):

This will be the case for

or from

/ / to / /

I will/will not need to assess your fitness for work again at the end of this period.
(Please delete as applicable)

Doctor's signature

Date of statement

/ /

Doctor's address

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[^{F48}PART 2A

ALTERNATIVE FORM OF [^{F49}healthcare professional's] STATEMENT]

- F48** Sch. 1 Pt. 2A inserted (6.4.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2022 (S.I. 2022/298), regs. 1(2), **3(6)**
- F49** Words in Sch. 1 Pt. 2A heading substituted (1.7.2022) by The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/630), regs. 1(2), **3(18)(b)**

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Statement of Fitness for Work For social security or Statutory Sick Pay

Patient's name

I assessed your case on:

and, because of the following condition(s):

I advise you that: you are not fit for work.
 you may be fit for work taking account of the following advice:

If available, and with your employer's agreement, you may benefit from:

<input type="checkbox"/> a phased return to work	<input type="checkbox"/> amended duties
<input type="checkbox"/> altered hours	<input type="checkbox"/> workplace adaptations

Comments, including functional effects of your condition(s):

This will be the case for

or from to

I will/will not need to assess your fitness for work again at the end of this period.
(Please delete as applicable)

Issuer's name

Issuer's profession

Date of statement

Issuer's address

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F50
...

F50 Sch. 1A omitted (6.4.2010) by virtue of The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2010 (S.I. 2010/137), regs. 1(2), **3(5)**

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EXPLANATORY NOTE

These Regulations contain provisions relating to the medical information which an employee may be required to produce for the purposes of statutory sick pay. They are all either made under section 17(2A) of the Social Security and Housing Benefits Act 1982, as inserted by section 20 of the Social Security Act 1985 (“the 1985 Act”) or are otherwise consequential upon section 20. As they are also made before the expiry of the period of 6 months beginning with the commencement of section 20 (6th April 1986), they are exempted by section 27(8)(m) of the 1985 Act from the requirement under section 10(1) of the Social Security Act 1980 (c.30) to refer proposals to the Social Security Advisory Committee and are made without reference to that Committee.

The Regulations and Rules in Schedule 1 prescribe the form of the statement to be issued by a registered medical practitioner advising an employee that he need not refrain from work or, as the case may be, that he should refrain from work for a period up to 6 months, or longer in certain circumstances.

Regulation 2(2) provides that medical information cannot be required in respect of an employee's first 7 days in any spell of incapacity for work.

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