

*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, SCHEDULE 2. (See end of Document for details)*

## SCHEDULE 2

(introduced by section 22)

### [<sup>F1</sup>THE FIRST-TIER TRIBUNAL]: PROCEDURE ETC.

#### Textual Amendments

- F1** Words in Sch. 2 heading substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(a\)](#) (with sch. 1)

#### *Notification of referral*

- 1 (1) [<sup>F2</sup>On receipt of a referral of a tenant's application under section 23(1) the First-tier Tribunal] must, as soon as practicable after receiving the reference, serve notice on the landlord and the tenant—
- (a) setting out the detail of the application in such manner as the [<sup>F3</sup>First-tier Tribunal thinks] fit,
  - [<sup>F4</sup>(b) stating that the Chamber President has referred the application to be heard by the First-tier Tribunal, and]
  - (c) specifying the day by which any—
    - (i) written representations, or
    - (ii) request to make oral representations,must be made.
- (2) The day so specified—
- (a) must be at least 14 days after the day on which the notice is served, and
  - (b) may, at the request of [<sup>F5</sup>the landlord or the tenant] , be changed to such later day as the [<sup>F6</sup>First-tier Tribunal thinks] fit.
- (3) The [<sup>F7</sup>First-tier Tribunal] must notify [<sup>F8</sup>the landlord and the tenant] of any change under sub-paragraph (2)(b).
- [<sup>F9</sup>(4) In the case of an application under section 22(1A), the [<sup>F10</sup>First-tier Tribunal] must, in addition to carrying out the matters mentioned in sub-paragraphs (1) to (3)—
- (a) serve on the third party applicant a notice containing the matters mentioned in sub-paragraph (1)(a) to (c),
  - (b) if the [<sup>F10</sup>First-tier Tribunal] thinks fit following a request of the third party applicant, change the day specified for the purposes of sub-paragraph (1)(c),
  - (c) notify—
    - (i) the third party applicant of any change under sub-paragraph (2)(b),
    - (ii) the landlord and the tenant of any change under paragraph (b).]

#### Textual Amendments

- F2** Words in sch. 2 para. 1(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(b\)\(i\)\(aa\)](#), (with sch. 1)

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- F3** Words in sch. 2 para. 1(1)(a) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), sch. 2 para. 6(20)(b)(i)(bb), (with sch. 1)
- F4** Sch. 2 para. 1(1)(b) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **sch. 2 para. 2(18)(a)** (with sch. 1 para. 5)
- F5** Words in sch. 2 para. 1(2) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 26(1)(b)**, 104(3); S.S.I. 2015/272, art. 2, Sch.
- F6** Words in sch. 2 para. 1(2)(b) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(20)(b)(ii)** (with sch. 1)
- F7** Words in sch. 2 para. 1(3) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(20)(b)(iii)** (with sch. 1)
- F8** Words in sch. 2 para. 1(3) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 26(1)(c)**, 104(3); S.S.I. 2015/272, art. 2, Sch.
- F9** Sch. 2 para. 1(4) inserted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 26(1)(d)**, 104(3); S.S.I. 2015/272, art. 2, Sch.
- F10** Words in sch. 2 para. 1(4) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(20)(b)(iv)** (with sch. 1)

### *Inquiries*

- 2 (1) The <sup>F11</sup>First-tier Tribunal] may, in considering an application, make such inquiries as <sup>F12</sup>it thinks] fit for the purposes of determining whether the landlord has complied with the duty imposed by section 14(1)(b) in relation to the house concerned.
- (2) Inquiries may be made about matters other than those to which the application relates.
- (3) Inquiries must include—
- (a) consideration of any timeous written representation made by or on behalf of the landlord <sup>F13</sup>, the tenant or, as the case may be, third party applicant] ,
  - (b) where the <sup>F14</sup>First-tier Tribunal] receives a timeous request to make an oral representation, hearing any such representation made by or on behalf of the landlord <sup>F15</sup>, tenant or, as the case may be, third party applicant] who made the request, and
  - (c) consideration of any report about the state of repair of the house concerned which the <sup>F14</sup>First-tier Tribunal] requests a third party to prepare.
- (4) A representation or request is timeous if it is received—
- (a) by the day specified <sup>F16</sup>in accordance with] paragraph 1(1)(c), or
  - (b) where a later day is specified <sup>F17</sup>in accordance with] paragraph 1(2)(b) or (4)(b)] , by that later day.

### **Textual Amendments**

- F11** Words in sch. 2 para. 2(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(20)(c)(i)(aa)** (with sch. 1)

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- F12** Words in sch. 2 para. 2(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(c\)\(i\)\(bb\)](#) (with sch. 1)
- F13** Words in sch. 2 para. 2(3)(a) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 26\(2\)\(a\)](#), 104(3); S.S.I. 2015/272, art. 2, sch.
- F14** Words in sch. 2 para. 2(3) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(c\)\(ii\)](#) (with sch. 1)
- F15** Words in sch. 2 para. 2(3)(b) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 26\(2\)\(b\)](#), 104(3); S.S.I. 2015/272, art. 2, sch.
- F16** Words in sch. 2 para. 2(4)(a) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 26\(2\)\(c\)](#), 104(3); S.S.I. 2015/272, art. 2, sch.
- F17** Words in sch. 2 para. 2(4)(b) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 26\(2\)\(d\)](#), 104(3); S.S.I. 2015/272, art. 2, sch.

### *Evidence*

- 3 (1) The [<sup>F18</sup>First-tier Tribunal] may, for the purposes of making inquiries, require the landlord, the tenant [<sup>F19</sup>, third party applicant] or any other person—
- (a) to attend a hearing of the [<sup>F18</sup>First-tier Tribunal] , at such time and place as the [<sup>F18</sup>First-tier Tribunal] may specify, for the purposes of giving evidence,
  - (b) to give the [<sup>F18</sup>First-tier Tribunal], by such day as [<sup>F20</sup>it] may specify, such documents or information as [<sup>F20</sup>it] may reasonably require.

- <sup>F21</sup>(2) .....
- <sup>F21</sup>(3) .....
- <sup>F21</sup>(4) .....

#### **Textual Amendments**

- F18** Words in sch. 2 para. 3(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)](#), (d)(i)(aa) (with sch. 1)
- F19** Words in sch. 2 para. 3(1) inserted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 26\(3\)](#), 104(3); S.S.I. 2015/272, art. 2, Sch.
- F20** Word in sch. 2 para. 3(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)](#), (d)(i)(bb) (with sch. 1)
- F21** Sch. 2 para. 3(2)-(4) omitted (1.12.2016) by virtue of [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(d\)\(ii\)](#) (with sch. 1)

### *Duty to consult on provision for detecting fires*

- 4 The [<sup>F22</sup>First-tier Tribunal] must, where the application relates to the standard of repair mentioned in section 13(1)(f), consult the chief officer of the [<sup>F23</sup>Scottish Fire and Rescue Service].

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### Textual Amendments

- F22** Words in sch. 2 para. 4 substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(e\)](#) (with sch. 1)
- F23** Words in Sch. 2 para. 4 substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 70](#); [S.S.I. 2013/51](#), art. 2 (with transitional provisions and savings in [S.S.I. 2013/121](#))

### *Expenses*

- 5 (1) The Scottish Ministers may pay to any person such allowances and expenses as they may determine in respect of—
- (a) the person's attendance at a hearing of [<sup>F24</sup>the First-tier Tribunal] ,
  - (b) the disclosure of anything required or requested by [<sup>F25</sup>the First-tier Tribunal] (including any report about the state of repair of a house which the [<sup>F25</sup>First-tier Tribunal] requests the person to prepare),
  - (c) anything else which the person was required or requested to do for the purposes of or in connection with inquiries made by [<sup>F26</sup>the First-tier Tribunal] .
- (2) No such payments may be made to—
- (a) the landlord,
  - (b) the tenant, or
  - [<sup>F27</sup>(ba) the third party applicant,]
  - (c) a representative of the landlord [<sup>F28</sup>, tenant or third party applicant] ,
- other than payments of reasonable travelling expenses in respect of attendance at a hearing of [<sup>F29</sup>the First-tier Tribunal] .

### Textual Amendments

- F24** Words in sch. 2 para. 5(1)(a) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(f\)\(i\)\(aa\)](#) (with sch. 1)
- F25** Words in sch. 2 para. 5(1)(b) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2) sch. 2 para. 6(20)(f)(i)(bb) (with sch. 1)
- F26** Words in sch. 2 para. 5(1)(c) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(f\)\(i\)\(cc\)](#) (with sch. 1)
- F27** Sch. 2 para. 5(2)(ba) inserted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 26\(4\)\(a\)](#), 104(3); [S.S.I. 2015/272](#), art. 2, Sch.
- F28** Words in sch. 2 para. 5(2)(c) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 26\(4\)\(b\)](#), 104(3); [S.S.I. 2015/272](#), art. 2, Sch.
- F29** Words in sch. 2 para. 5(2) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 6\(20\)\(f\)\(ii\)](#) (with sch. 1)

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### *Recording and notification of decisions*

- 6 (1) This paragraph applies to any decision of [<sup>F30</sup>the First-tier Tribunal] —
- (a) under section 24(1) (decision on [<sup>F31</sup>an] application),
  - (b) to vary or revoke a repairing standard enforcement order (see section 25),
  - (c) that a landlord has failed to comply with a repairing standard enforcement order (see section 26(1)),
  - (d) to make or not to make a rent relief order (see section 26(2)(b)),
  - (e) to revoke a rent relief order (see section 27(4)),
  - (f) to consent under section 28(6) to the landlord entering into a tenancy or occupancy arrangement,
  - (g) to grant, or to refuse to grant, a certificate under section 60.
- (2) A decision to which this paragraph applies—
- (a) may be reached by majority, and
  - (b) must be recorded in a document which—
    - (i) contains a full statement of the facts found by the [<sup>F32</sup>the First-tier Tribunal and the reasons for its] decision,
    - (ii) explains the procedure, if any, for appealing the decision, and
    - (iii) narrates the effect of section 63 (which sets the date from which the decision, and any order made or varied in pursuance of it, has effect).
- (3) The [<sup>F33</sup>First-tier Tribunal] must, as soon as reasonably practicable after making a decision to which this paragraph applies, serve notice of the decision on—
- (a) the landlord,
  - (b) the tenant,
  - (c) where the [<sup>F33</sup>First-tier Tribunal] is aware of the name and address of a person who acts for the tenant in relation to the tenant's application, that person, <sup>F34</sup> ...
  - [<sup>F35</sup>(d) in the case of an application under section 22(1A), the third party applicant, and
  - (e) the local authority (unless the local authority is the third party applicant in relation to the decision).]
- (4) Such a notice must be accompanied by a copy of—
- (a) the document mentioned in sub-paragraph (2)(b),
  - (b) any order made or varied, or certificate granted, in pursuance of the decision, and
  - (c) any report which the [<sup>F36</sup>First-tier Tribunal] considered before making the decision.
- (5) The local authority is entitled to disclose any notice and any copy document, order, certificate or report it receives under this paragraph to—
- (a) an authority administering housing benefit [<sup>F37</sup>or universal credit],
  - (b) a person providing services relating to housing benefit [<sup>F37</sup>or universal credit] to, or authorised to discharge any function relating to housing benefit [<sup>F37</sup>or universal credit] of—
    - (i) a local authority, or
    - (ii) an authority administering housing benefit [<sup>F37</sup>or universal credit].

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### Textual Amendments

- F30** Words in sch. 2 para. 6(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\), reg. 1\(2\), sch. 2 para. 6\(20\)\(g\)\(i\)](#) (with sch. 1)
- F31** Word in sch. 2 para. 6(1)(a) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 26\(5\)\(a\), 104\(3\); S.S.I. 2015/272, art. 2, sch.](#)
- F32** Words in sch. 2 para. 6(2)(b)(i) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\), reg. 1\(2\), sch. 2 para. 6\(20\)\(g\)\(ii\)](#) (with sch. 1)
- F33** Words in sch. 2 para. 6(3) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\), reg. 1\(2\), sch. 2 para. 6\(20\)\(g\)\(iii\)](#) (with sch. 1)
- F34** Word in sch. 2 para. 6(3)(c) repealed (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 26\(5\)\(b\), 104\(3\); S.S.I. 2015/272, art. 2, sch.](#)
- F35** Sch. 2 para. 6(3)(d)(e) substituted for sch. 2 para. 6(3)(d) (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 26\(5\)\(c\), 104\(3\); S.S.I. 2015/272, art. 2, sch.](#)
- F36** Words in sch. 2 para. 6(4)(c) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\), reg. 1\(2\), sch. 2 para. 6\(20\)\(g\)\(iv\)](#) (with sch. 1)
- F37** Words in Sch. 2 para. 6(5) inserted (29.4.2013) by [The Welfare Reform \(Consequential Amendments\) \(Scotland\) \(No. 2\) Regulations 2013 \(S.S.I. 2013/137\), regs. 1, 7](#)

### *Withdrawal of application*

- 7 (1) A tenant may withdraw an application under section 22(1) at any time (and the tenant is to be treated as having withdrawn it if the tenancy concerned is lawfully terminated).
- [<sup>F38</sup>(1A) A third party applicant may withdraw an application under section 22(1A) at any time.]
- (2) Where an application is withdrawn before the [<sup>F39</sup>Chamber President has referred] the case to [<sup>F40</sup>the First-tier Tribunal] , the [<sup>F41</sup>Chamber President] may—
- (a) abandon the application, or
  - (b) despite the withdrawal, continue to refer the case to [<sup>F40</sup>the First-tier Tribunal] .
- (3) Where an application is withdrawn after it has been referred to [<sup>F42</sup>the First-tier Tribunal, the First-tier Tribunal] may—
- (a) abandon [<sup>F43</sup>its] consideration of the application, or
  - (b) despite the withdrawal—
    - (i) continue to determine the application, and
    - (ii) if [<sup>F44</sup>it does] so by deciding that the landlord has failed to comply with the duty imposed by section 14(1), make and enforce a repairing standard enforcement order.

*Changes to legislation:* There are currently no known outstanding effects for the Housing (Scotland) Act 2006, SCHEDULE 2. (See end of Document for details)

### Textual Amendments

- F38** Sch. 2 para. 7(1A) inserted (1.12.2015) by Housing (Scotland) Act 2014 (asp 14), **ss. 26(6)**, 104(3); S.S.I. 2015/272, art. 2, sch.
- F39** Words in sch. 2 para. 7(2) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(18)(b)(i)** (with sch. 1 para. 5)
- F40** Words in sch. 2 para. 7(2) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **sch. 2 para. 6(20)(h)(i)** (with sch. 1)
- F41** Words in sch. 2 para. 7(2) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(18)(b)(ii)** (with sch. 1 para. 5)
- F42** Words in sch. 2 para. 7(3) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **sch. 2 para. 6(20)**, (h)(ii)(aa) (with sch. 1)
- F43** Word in sch. 2 para. 7(3)(a) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **sch. 2 para. 6(20)**, (h)(ii)(bb) (with sch. 1)
- F44** Words in sch. 2 para. 7(3)(b)(ii) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **sch. 2 para. 6(20)**, (h)(ii)(cc) (with sch. 1)

*Procedure: further provision.*

- 8 (1) The Scottish Ministers may by regulations make further provision about the making or determination of applications under section 22(1) <sup>F45</sup> and 22(1A)]
- (2) Those regulations may, in particular, provide that matters which are preliminary or incidental to the determination of such an application may be dealt with by any individual member of <sup>F46</sup> ... <sup>F47</sup> [the First-tier Tribunal] alone.

### Textual Amendments

- F45** Words in sch. 2 para. 8(1) inserted (20.11.2014) by Housing (Scotland) Act 2014 (asp 14), **ss. 26(7)**, 104(3); S.S.I. 2014/264, art. 2, sch.
- F46** Words in sch. 2 para. 8(2) repealed (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(18)(c)** (with sch. 1 para. 5)
- F47** Words in sch. 2 para. 8(2) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **sch. 2 para. 6(20)(i)** (with sch. 1)

### Commencement Information

- II** Sch. 2 para. 8 not in force at Royal Assent see s. 195(3); Sch. 2 para. 8 in force for certain purposes at 4.12.2006 by S.S.I. 2006/569, **art. 2**; Sch. 2 para. 8 in force at 3.9.2007 by S.S.I. 2007/270, {art. 3 Table}

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