

# **Winter Heating Assistance (Low Income) (Scotland) Regulations 2023**

**Fairer Scotland Duty Assessment**

November 2022

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| <p><b>Title of Policy, Strategy, Programme etc.</b></p>       | <p>Winter Heating Assistance (Low Income) (Scotland) Regulations 2023</p>  |
| <p><b>Summary of aims and expected outcomes of policy</b></p> | <p>The Social Security (Scotland) Act 2018 (the 2018 Act) sets out the broad framework for the delivery of devolved social security in Scotland. Section 30 of the Social Security (Scotland) Act 2018 confers powers on Scottish Ministers to make regulations prescribing the eligibility rules for assistance provided under section 24 of the 2018 Act to help an individual to meet, or help towards meeting, the individual’s heating costs during the winter months.</p> <p>The 2021/22 Programme for Government included a commitment to replace the current UK Government Cold Weather Payment (CWP) with a new Winter Heating Payment (WHP), (formerly known as Low Income Winter Heating Assistance (LIWHA)), to be introduced in Scotland in Winter 2022/23.</p> <p>Further policy background to the Winter Heating Assistance (Low Income) (Scotland) Regulations 2023 and further information about the specific provisions are fully set out in the published draft regulations and accompanying policy note<sup>1</sup>.</p> <p><b>Expected Outcome</b></p> <p>Everyone who would currently be eligible for CWP due to being in receipt of a specified low income reserved benefit<sup>2</sup> will automatically be eligible for a WHP.</p> <p>WHP will be a single annual payment of £50, equivalent to the current value of two CWP awards. We anticipate that approximately 400,000 individuals will receive WHP each year.</p> <p>By breaking the link with weather, WHP aims to mitigate some of the impact of additional domestic heating costs in winter. The key aim of the new benefit is to provide targeted, reliable financial support to those most in need of</p> |

<sup>1</sup> [Low Income Winter Heating Assistance consultation: Scottish Government response](#)

<sup>2</sup> Pension Credit, Income Support, income-based Jobseekers Allowance, income-related Employment and Support Allowance, Universal Credit and Support for Mortgage Interest. Additional qualifying criteria in relation to premiums paid because the client is of pension age, disabled or because the client has a disabled young person or child in their household also need to be met.

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|                                   | <p>help with their energy costs every winter, including people who are on a low income and who are also:</p> <ul style="list-style-type: none"> <li>• of pension age; or</li> <li>• a disabled adult; or</li> <li>• a family who have responsibility for either a child under the age of 5 or a disabled child.</li> </ul> <p><b>National Outcome</b></p> <p>The policy aligns closely with the Scottish Government’s Wealthier and Fairer Strategic Objectives, but also links with the Scottish Governments priorities to tackle child poverty and the cost of living crisis.</p> <p>The policy contributes to the following National Outcomes:</p> <ul style="list-style-type: none"> <li>• <b>Children and Young People:</b> We grow up loved, safe and respected so that they realise their full potential.</li> <li>• <b>Communities:</b> We live in communities that are inclusive, empowered, resilient and safe.</li> <li>• <b>Health:</b> We are healthy and active.</li> <li>• <b>Human Rights:</b> We respect, protect and fulfil human rights and live free from discrimination.</li> <li>• <b>Poverty:</b> We tackle poverty by sharing opportunities, wealth and power more equally.</li> </ul> |
| <p><b>Summary of evidence</b></p> | <p>This Fairer Scotland Duty assessment has been developed drawing on a range of primary research, including 2 public consultations, and engagement with those with lived experience of benefits, as well as ongoing consultation with stakeholders through our Winter Benefits Stakeholder Reference Group.</p> <p>The public consultation on LIWHA (now named Winter Heating Payment) took place between 1 December 2021 and 25 February 2022<sup>3</sup>. It provided an overview of the new payment’s aim, its key eligibility criteria and its format. It set out how we intend to deliver this new benefit through Social Security Scotland to provide help towards meeting heating costs in winter. The consultation asked specific questions on whether the policy intention will best meet the needs of those it aims to help including whether the requirement for a period of cold weather to trigger a</p>   |

<sup>3</sup> [Low Income Winter Heating Assistance \(LIWHA\): consultation - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/low-income-winter-heating-assistance/liwha-consultation/pages/12.aspx)

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|  | <p>payment should be removed, whether different qualifying benefits should confer eligibility and whether those receiving such benefits should be identified during an annual qualifying week. We also asked about the value, format and timing of the payment itself. A report<sup>4</sup> summarising the independent analysis of the 119 consultation responses has been published on the Scottish Government website.</p> <p>As part of this engagement process the Scottish Government also ran an extended workshop with a wide range of organisations representing various sectors in January 2022.</p> <p>The responses to the consultation provided us with a range of proposed changes. In general respondents agreed with the removal of weather dependence but want the value of the payment to be higher. They also wanted to retain some of the current responsiveness of CWP to additional need in some circumstances, or at least to provide flexibility throughout the winter period either through multiple assessments of eligibility and/or multiple payments to cover the entire winter, or to increase the likelihood of coinciding with the coldest periods. Other respondents suggested implementing additional payments targeting specific locations that traditionally experience the coldest annual temperatures, and which would have triggered three or more Cold Weather Payments under the DWP Cold Weather scheme.</p> <p>Alongside the WHP consultation, we asked members of our Social Security Experience Panels for their views on the key policy options for this new benefit. In total, 288 members chose to complete our survey exploring this topic<sup>5</sup>. Of those Panel members that responded;</p> <ul style="list-style-type: none"><li>• 82% agreed with the plan to replace Cold Weather Payment with a new benefit in Scotland;</li><li>• 87% agreed that a new benefit replacing Cold Weather Payment is a good way to help towards winter heating costs for people on low incomes;</li><li>• 90% agreed with the plan to remove the need for a 'cold spell', a component of the eligibility for Cold Weather Payment, in order for people to receive the new benefit.</li></ul> |
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<sup>4</sup> [Low Income Winter Heating Assistance: consultation analysis](#)

<sup>5</sup> [Social Security Experience Panels - Low Income Winter Heating Assistance: survey findings](#)

On 7 June 2022, the Scottish Government published the full independent Consultation Analysis Report<sup>6</sup>, the Experience Panel Survey Report<sup>7</sup> and the Scottish Government's response to the consultation<sup>8</sup>.

### **Link between Poverty and Disability, Childhood and Older Age**

Research has shown that poverty disproportionately affects those living with a disability, with disabled people experiencing higher poverty rates than the rest of the population.

In Scotland, approximately 42% of all households in poverty (around 410,000 households) include a disabled adult or disabled child<sup>9</sup>. Furthermore, research tells us that children in households with a person with disabilities are more likely to live in poverty, and being in work cannot guarantee the prevention of poverty<sup>10</sup>.

Research conducted by the Papworth Trust<sup>11</sup> showed that disabled people face higher costs than non-disabled people, such as the cost of specialist equipment, therapies and home adaptations to manage a condition<sup>12</sup>. Furthermore, the study showed that the cost of bringing up a disabled child is three times greater than for a non-disabled child.

In Scotland, it is estimated that 24% of children (240,000 children each year) were living in relative poverty after housing costs in 2017-2020. Before housing costs, it is estimated that 21% of children (210,000 children each year) were in relative poverty<sup>1</sup>. Children in this context refers to 'dependent children'; a dependent child is a person either aged 0-15, or aged 16-19 and: not married nor in a Civil Partnership nor living with a partner, and living with their parents, and in full-time non-advanced education or in unwaged government training. The longer that children experience poverty, the greater the damage to their health, wellbeing and life chances. From birth, without support, children living in poverty are twice as

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<sup>6</sup> [Low Income Winter Heating Assistance: consultation analysis](#)

<sup>7</sup> [Social Security Experience Panels - Low Income Winter Heating Assistance: survey findings](#)

<sup>8</sup> [Low Income Winter Heating Assistance consultation: Scottish Government response](#)

<sup>9</sup> [Disability and poverty: Why Disability Must Be at the Centre of Poverty Reduction](#)

<sup>10</sup> [Scotland's National Strategy for Economic Transformation: equality transition statement](#)

<sup>11</sup> [The Energy Penalty: Disabled People and Fuel Poverty](#)

<sup>12</sup> [Income and benefits | JRF](#)

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|  | <p>likely to fall behind their peers in all aspects of their development.</p> <p>Fuel poverty statistics also tell us that older households (36%) have a higher fuel poverty rate than families (16%)<sup>13</sup>. In addition to this, older households are less likely than Families and Other household types to report that their heating system doesn't always keep them warm in winter; 12%, compared to 16% of families and 21% of other households<sup>14</sup>. Furthermore, a lower proportion of older households (36%) live in dwellings with the highest energy efficiency bands (EPC C or better, SAP 2012) than families (55%) or other households (46%)<sup>15</sup>.</p> <p>In winter 2021/22 there was an estimated 124,000 pensioners in Scotland eligible for a CWP through receipt of Pension Credit, and this group would have received a payment should the weather conditions have been met in their area. However, only 5,000 payments were made to this group<sup>16</sup>. Going forward, WHP will provide every pensioner in receipt of Pension Credit in Scotland a £50 payment each winter.</p> <p><b>The impact of fuel poverty on households who require an enhanced heating regime</b></p> <p>The Scottish House Condition Survey data (December 2019)<sup>17</sup> indicates that around 613,000 households (24.6%) in Scotland live in fuel poverty, with 311,000 (12.4%) of them living in extreme fuel poverty.</p> <p>Households with a family member who has a long-term physical or mental health condition or disability are disproportionately over-represented within fuel poverty statistics, with approximately 34% of fuel poor households containing someone with a disability<sup>18</sup>. Also, fuel poor households with low levels of energy efficiency are more likely to have at least one member who has a long-term illness or disability (56%) when compared to non-fuel poor households in similarly inefficient homes (41%)<sup>19</sup></p> |
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<sup>13</sup> Scottish House Condition Survey: Key Findings 2019 - [4 Fuel Poverty - Scottish house condition survey: 2019 key findings - gov.scot \(www.gov.scot\)](http://www.gov.scot)

<sup>14</sup> Section 243: [scottish-house-condition-survey-2019-key-findings.pdf](http://www.gov.scot)

<sup>15</sup> Table 21: Scottish House Condition Survey 2019 [Scottish house condition survey: 2019 key findings - gov.scot \(www.gov.scot\)](http://www.gov.scot)

<sup>16</sup> [Cold Weather Payment estimates: 2021 to 2022 - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

<sup>17</sup> [Scottish house condition survey: 2019 key findings](http://www.gov.scot)

<sup>18</sup> [The Energy Penalty: Disabled People and Fuel Poverty](http://www.gov.scot)

<sup>19</sup> Page 20 [Tackling Fuel Poverty in Scotland: A Strategic Approach \(www.gov.scot\)](http://www.gov.scot)

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|  | <p>Fuel poverty, as defined in the Scottish Fuel Poverty strategy, is when a household has to spend more than 10% of their income on fuel costs, in order to maintain a satisfactory heating regime. The World Health Organisation (WHO) have defined this as 21°C in the living room and 18°C in other rooms, for 16 hours in every 24, unless the household is classified as “vulnerable”, such as when at least one resident has a long term sickness or disability. In these instances, the heating regime required is 23°C in the living room and 18°C in other rooms, for 16 hours per day. In light of this guidance, the Scottish Fuel Poverty Definition Review Panel recommended in 2017 that for ‘vulnerable households’, including those of disabled people, the living room temperature recommendation should be 23°C and other rooms 20°C.</p> <p>In spite of the WHO recommendations, research shows that vulnerable households often struggle to afford adequate energy consumption to meet their needs.</p> <p>By providing a payment of £50 to households in receipt of specific low income benefits, we are targeting the most vulnerable households to support them meet additional heating costs due to the necessity of an intensive heating regime essential to some disabled people, older people and young children.</p> |
| <p><b>Summary of assessment findings</b></p> | <p><b>Impact of the removal of the requirement for cold weather to trigger a payment on specific communities</b></p> <p>Analysis of the consultation showed that there was broad support for the introduction of WHP, with 70% of respondents agreeing with the proposal to replace CWPs with a new benefit. Over three quarters of respondents also agreed with the proposal to remove the cold spell requirement for payment. The majority of respondents agreed that WHP, as proposed, would be an effective way for the Scottish Government to tackle increased winter heating costs of eligible recipients.</p> <p>The consultation also highlighted the significant variability of CWP in payment numbers in previous winters where in many cases people have received no CWPs despite experiencing cold winters. For example, island communities have received very few payments in recent years, despite temperatures feeling cold because of factors such as wind chill and driving rain. Therefore, island communities are likely to benefit from this change as they have historically had very few CWPs.</p>  |

Conversely, some respondents raised concerns about the proposal to remove the cold spell criteria, highlighting the possibility that individuals living in areas where there are normally more than two cold spells per winter, or prolonged cold spells, would receive less money than they typically do under the current system. This was a theme of concern noted by some individuals as well as organisations such as Energy Action Scotland, Age Scotland and Scottish Federation Of Housing Associations.

As of 2021/22, the data showing the average number of CWP payments in Scotland over the last 7 years indicates that there are 5 areas identified through weather stations that had an average of more than two payments per year since winter of 2015/16 (Aboyne, Aviemore, Braemar, Loch Glascarnoch, Tulloch Bridge). In contrast, there has been significant variability across Scotland in payment numbers in recent years. In the majority of locations, no eligible recipients have received a payment due to the restrictive criteria for 7 days of prolonged low temperature being applied. CWP has therefore failed to offer certainty that any payment will be provided. WHP guarantees an annual payment to eligible low income households, including those in Braemar who, while they have had at least 3 CWP payments in each of the past 6 years, cannot be sure that they will receive any in future years.

We cannot forecast the weather conditions for future years in order to establish who would be better or worse off under WHP. We can measure the comparative value of the payment only in retrospect when we know how many contingent payments have actually been triggered. However, CWP does not offer certainty that any payment will be provided and it sets extremely restrictive conditions (7 consecutive days below zero degrees centigrade) for a single payment to be triggered. WHP removes this barrier altogether and guarantees an annual payment to low income households, including those in traditionally colder areas who have benefited from previous support, and for the first time, it provides guaranteed support to people on low-incomes who live in areas that experience marginally warmer Scottish weather conditions, but would not have had a payment under the CWP system.

Retaining any weather dependency aspect when introducing WHP would require a new agreement to be reached with the DWP and the Met Office and would be much more technically complex to develop and test and



would be a more administratively burdensome scheme for Social Security Scotland to deliver. Making more than a single payment each winter would increase the complexity and cost of delivering the benefit. We have, however, retained the ability to legislate for additional payments to be made should the need arise and the funding be made available. By adopting this approach it means that everyone entitled to WHP will receive additional support should additional money become available.

We therefore believe that our change in approach, moving away from weather dependency, means that we will ensure that all households who have been identified as requiring additional support with their winter heating bills will receive it, regardless of weather, temperature or where they live in Scotland.

### **Name of benefit**

Less than half of respondents (48%) agreed with the proposed name 'Low Income Winter Heating Assistance', highlighting the use of 'low income' in the title name as being perceived as potentially 'stigmatising' for eligible recipients on low-incomes. This theme was supported by feedback at our stakeholder workshop in January and further highlighted in the responses to our Experience Panel survey.

Following further testing of potential names for this benefit with our Social Security Experience Panel members and stakeholders, the benefit will be renamed Winter Heating Payment.

### **Impact of mirroring CWP eligibility**

The consultation proposed that eligibility to receive WHP should be based on the same qualifying reserved benefits which are currently used to establish eligibility for CWP, but without reference to cold weather.

Some who responded to the consultation suggested extending eligibility to include other qualifying benefits; broadening the scope of the current benefits by removing the requirement for receipt of premiums and widening to include those in receipt of Universal Credit who are in work, and extending eligibility to individuals on low incomes who do not receive any benefits. The rationale being that this would capture certain groups that could be

considered as being most at risk of the impact of increases in energy prices and the overall cost of living, such as carers and people receiving disability benefits.

However, we concluded that these alternatives would introduce a number of challenges, not least the need to define a low income, and also place a burden on the client to make an application and to provide any supporting evidence of their eligibility. Extending the eligibility to include those who are in receipt of Universal Credit and who are in work (over and above the entitlement to those who have a disabled child or qualifying young person and whose award of Universal Credit includes an amount under section 10(2) of the Welfare Reform Act 2012) or to those who are on low incomes but not in receipt of benefits, would extend the scope of the group we were supporting to a group who are likely to have a higher level of income. It is clear that any addition of further qualifying benefits would increase annual caseload, cost and, in most cases, complexity and through extension would no longer be targeting those most in need, as is our intention. It is also unlikely to be possible to deliver an alternative ahead of legacy benefits being replaced by Universal Credit in 2024.

We concluded that due to the overlap between the current eligibility for CWP and those households who have need for an enhanced heating regime, it is considered that the proposed benefit is appropriate to ensure that the new payment is targeted to individuals who are most in need. However, we will continue to review the eligibility criteria for WHP after the launch of the benefit.

### **Potential impact of Increasing payment value or the number of payments**

WHP proposes a single annual payment of £50 (equivalent to the sum of two CWPs at £25). Many consultation respondents thought this should be higher, particularly given the current cost of living crisis and rising energy prices but also to address concerns in relation to those who have previously received more than 2 CWPs previously which would have had a value of £50.

This was echoed in our Social Security Experience Panel survey where less than one quarter of respondents agreed a single annual payment of £50 would be suitable. Suggestions tended to range between £75 and £100. This would increase the forecasted annual expenditure from

£20 million to between £30 million and £40 million, (assuming the same number of recipients of qualifying benefits). We have concluded that this is currently unaffordable and so do not intend to increase the value of the WHP payment for the benefit delivery in winter 2022-23. However, we will keep this under review.

The Scottish Government's annual expenditure on WHP will exceed the funding provided for CWP through the Block Grant Adjustment (BGA). We have made a choice to invest over and above the corresponding level of funding that we are forecast to receive from the UK Government and this therefore limits the scope for additional increases to the value or frequency of payments from within our fixed Budget. The changes we are making will improve dependability for recipients and enable the government to be in a better position to more accurately forecast actual expenditure each year. Affordability and Value for Money are at the heart of our policy development process and were key themes in the recent public consultation. They have also been key aspects which shaped policy decisions when drafting the regulations.

Stakeholder feedback on single or multiple payments was mixed. We concluded that making more than a single payment each winter would increase the complexity and cost of delivering the benefit. We have therefore decided to opt for a single annual payment, but we will retain in the underpinning legislation the ability to legislate for additional payments to be made should the need arise and the funding be made available.

### **Impact of the qualifying week**

Removing the need for a period of cold weather to trigger a payment requires us to specify the point or points in time at which eligibility for the new benefit will be determined. In line with our Child Winter Heating Assistance, we had proposed a 'qualifying week' for which we would receive data from DWP identifying households in receipt of the specified qualifying benefits.

Feedback from stakeholders and recipients have suggested that we introduce a longer qualifying period or multiple periods in which to identify eligible clients throughout the winter to avoid occurrences of recipients missing out on payments due to fluctuating incomes or change of circumstances. The consultation highlighted 'women' as a group 'particularly at risk of being deemed

ineligible due to changing circumstances during the gap between the qualifying week and the date of the payment, as they are more likely to be in part-time employment with fluctuating hours, have caring responsibilities or have responsibility for a 'new' baby born after the qualifying period.

Our assessments revealed that the introduction of multiple qualifying periods would add significant complexity, increase the risk to delivery and require DWP agreement. We therefore concluded that alternative solutions to the 'qualifying week' would not be able to be delivered by winter 2022-23.

However, we understand the issues raised and are therefore changing the qualifying week to November which will bring it closer to the payment date in February 2023. This will minimise the concerns raised by respondents about the length of time between assessing entitlement and making payments.

In addition, we have removed the exclusions to address a difference in treatment of people residing in alternative accommodation during the qualifying week. We have taken this approach to ensure that if someone is in alternative accommodation such as a private hospital or care home during the qualifying week they will continue to receive the WHP. This acknowledges that their situation could change during the winter months, resulting in their return home but also acknowledges that, despite their location during the qualifying week, this group, who are likely to be very vulnerable, may still be responsible for energy costs and therefore are likely to require the additional support.

### **Timing of payment**

We proposed to deliver the annual WHP payment in February, as we recognised it was traditionally the coldest time of the year. Feedback has suggested that this is too late for many recipients, including those households on low incomes in rural or island communities who due to being 'off grid' and reliance on alternative fuel need to buy fuel in advance. Those on pre-payment meters were also highlighted as being disadvantaged by this proposal as these households are vulnerable to the accumulation of debt with their energy providers. It was recognised that these communities often have to pay more for fuel and in advance to prepare for the coldest spells.

We understand the specific needs of these communities, but are also aware that a payment before February 2023 would add risk to the proposed delivery of the extended Scottish Child Payment, Adult Disability Payment and the transfer of Personal Independence Payment clients from DWP to Adult Disability Payment. Social Security Scotland also need to develop capacity to process the 400,000 WHP cases requiring payment and essential system testing being completed prior to commencing payments. We do not want to risk the delivery of these vital benefits to the wider communities. On balance, we have assessed the risk, and believe it is safer to continue as planned with payment in February for 2023, but have committed to exploring the feasibility of bringing forward the payment date in future years.

### **Tackling Fuel Poverty**

We do recognise that the costs associated with heating homes has increased significantly since the initial development of WHP policy. This policy aims to mitigate some of the challenges presented by the volatile winter energy costs for vulnerable households and also to help alleviate poverty and inequalities. The current record rise in global gas prices heightens the risk that despite this financial support, there will be an ongoing need to support those at risk of, or in, crisis.

We know that fuel poverty is affected by levels of household income, household energy prices, the energy efficiency of housing and how households use energy in the home. Increasing household incomes through social security support is, therefore crucial if levels of fuel poverty are to be reduced. However, this is only one mechanism the Scottish Government is using to tackle fuel poverty levels and target support to those most in need.

Poor energy efficiency is one of the drivers for fuel poverty and is frequently associated with extreme fuel poverty. In line with our Heat in Building Strategy, we have expanded our offer to provide more whole house retrofits and a wider range of support for fuel poor households in rural areas. We continue to invest in our Warmer Homes Scotland and Area-Based Schemes. This year we have invested £55 million for Warmer Homes Scotland and maintained funding at £64 million for our local authority led Area Based Schemes.

In total we are allocating at least £1.8 billion over the course of this Parliament on heat and energy efficiency measures and to support those least able to pay and have expanded the capacity of our Home Energy Scotland Advice service to help an extra 12,000 households a year receive free, impartial advice. They can provide help and support to reduce bills and make homes warmer and cheaper to heat.

### **Monitoring and Evaluation**

The Winter Benefits Stakeholder Reference Group will continue to play a vital role in the development of WHP policy and practice. The group will provide a forum for dialogue and will monitor the implementation of the benefit, raising any issues voiced by eligible recipients and organisations.

Once payments are being made we will, as with other benefits, seek to make ongoing improvements based on the feedback of recipients. The Scottish Government will put in place a monitoring and evaluation plan prior to the implementation of WHP. Monitoring the impact of the WHP will be a continuous process. If any unintended negative consequences on socio-economic inequality issues are identified steps will be taken to rectify them. This will inform any future consideration of variations to policy or delivery arrangements.

Ministers will report to the Scottish Parliament every year on what Social Security Scotland has done to ensure the commitments in the Social Security Charter are being delivered. The Scottish Commission on Social Security (SCoSS) will also report to the Scottish Parliament on Social Security Scotland's progress against what was promised in the Charter. In this way we will invest in the people of Scotland, making a positive difference to the lives of all.

### **Conclusion**

This Fairer Scotland Duty has identified that overall, the introduction of Winter Heating payment to replace Cold Weather Payments has the potential to have a positive impact on reducing inequality and tackling poverty for some low-income households by mitigating some of the volatile winter energy costs for those more in need of increased heat during the coldest time of the year.

Sign off

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