



Fair Trading Act 1973

1973 CHAPTER 41

PART XII

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

^{F1}124 Publication of information and advice.

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Textual Amendments

F1 S. 124 repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 26](#); S.I. 2003/1397, art. 2(1), [Sch.](#) (with arts. 6, 8)

^{F2}125 Annual and other reports of Director.

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Textual Amendments

F2 S. 125 repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 26](#); S.I. 2003/1397, art. 2(1), [Sch.](#) (with arts. 6, 8, 9)

126 ^{F3}

Textual Amendments

F3 S. 126 repealed by [Patents Act 1977 \(c. 37\)](#), [Sch. 6](#)

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Changes to legislation: There are currently no known outstanding effects for the Fair Trading Act 1973, Part XII. (See end of Document for details)

127 Additional power to make orders under Agricultural Marketing Act 1958.

The following section shall be inserted in the ^{M1}Agricultural Marketing Act 1958 after section 19 :—

- (1) The provisions of this section shall have effect where a report made by the Monopolies and Mergers Commission under section 54 of the Fair Trading Act 1973, as laid before Parliament, contains conclusions to the effect—
 - (a) that certain matters indicated in the report operate, or may be expected to operate, against the public interest, and
 - (b) that those matters consist of or include any provision of a scheme or any act or omission of a board administering a scheme.
- (2) In the circumstances mentioned in subsection (1) of this section, the Minister shall have the like power to make orders under section 19 of this Act as if those conclusions of the Monopolies and Mergers Commission—
 - (a) had been to the effect that the provision of the scheme in question, or the act or omission of the board to which those conclusions relate, were contrary to the interest of consumers of the regulated product, and
 - (b) had been contained in a report of a committee of investigation.”

Modifications etc. (not altering text)

C1 The text of section 127 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M1 1958 c. 47.

128 ^{F4}

Textual Amendments

F4 S. 128 repealed by Restrictive Trade Practices Act 1976 (c. 34), Sch. 6

^{F5}**129 Time-limit for prosecutions.**

- (1) No prosecution for an offence under this Act shall be commenced after the expiration of three years from the commission of the offence or one year from its discovery by the prosecutor, whichever is the earlier.
- (2) Notwithstanding anything in [^{F6}section 127(1) of the Magistrates’ Courts Act 1980], a magistrates’ court may try an information for an offence under this Act if the information was laid within twelve months from the commission of the offence.
- (3) Notwithstanding anything in [^{F7}section 136 of the Criminal Procedure (Scotland) Act 1995], summary proceedings in Scotland for an offence under this Act may be commenced within twelve months from the commission of the offence, and

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[^{F7}subsection (3) of the said section 136] shall apply for the purposes of this subsection as it applies for the purposes of that section.

- (4) In the application of this section to Northern Ireland, for the references in subsection (2) to [^{F8}section 127(1) of the Magistrates' Courts Act 1980] and to the trial and laying of an information there shall be substituted respectively references to [^{F9}Article 19(1) of the Magistrates' Courts (Northern Ireland) Order 1981] and to the hearing and determination and making of a complaint [^{F10}and as if in that subsection for the words "an offence under this Act" there were substituted the words "an offence under section 30(1) [^{F11}or 46(2)] of this Act"].

Textual Amendments

- F5** S. 129 applied (28.8.1996) by S.I. 1996/2199, reg. 26
F6 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, Sch. 7 para. 118
F7 Words in s. 129(3) substituted (S.) (1.4.1996) by 1995 c. 40, ss. 5, 7(2), Sch. 4 para. 9(a)(b)
F8 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, Sch. 7 para. 118
F9 Words substituted by S.I. 1981/1675 (N.I. 26), art. 170(2), Sch. 6 para. 30
F10 Words added (22.6.1980) by S.I. 1980/704 (N.I. 6), Sch. 1 Pt. II para. 70
F11 Words in s. 129(4) repealed (20.6.2003 for specified purposes) by Enterprise Act 2002 (c. 40), s. 279, Sch. 26 (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 6, 8)

^{F12}130 Notice to Director of intended prosecution.

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Textual Amendments

- F12** S. 130 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 26; S.I. 2003/1397, art. 2(1), Sch. (with arts. 6, 8)

^{F13}131 Notification of convictions and judgments to Director.

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Textual Amendments

- F13** S. 131 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 26; S.I. 2003/1397, art. 2(1), Sch. (with arts. 6, 8)

132 Offences by bodies corporate.

- (1) Where an offence under section 23, [^{F14}section 46,] section 85(6) [^{F15}section 93B] or Part XI of this Act, which has been committed by a body corporate, is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

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- (2) Where the affairs of a body corporate are managed by its members, subsection (1) of this section shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Textual Amendments

- F14** Words in s. 132(1) repealed (20.6.2003 for specified purposes) by Enterprise Act 2002 (c. 40), s. 279, Sch. 26 (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 6, 8)
- F15** Words inserted by Companies Act 1989 (c. 40, SIF 27), s. 153, Sch. 20 para. 17

Modifications etc. (not altering text)

- C2** S. 132 applied (with modifications) (28.8.1996) by S.I. 1996/2199, reg. 27

^{F16}133 General restrictions on disclosure of information.

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Textual Amendments

- F16** S. 133 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 247(b), 279, Sch. 26; S.I. 2003/1397, art. 2(1), Sch. (with art. 6)

134 Provisions as to orders.

- (1) Any statutory instrument whereby any order is made under any of the preceding provisions of this Act, other than a provision which requires a draft of the order to be laid before Parliament before making the order, or whereby any regulations are made under this Act, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Any power conferred by any provision of this Act to make an order by statutory instrument shall include power to revoke or vary the order by a subsequent order made under that provision.

135 Financial provisions.

- (1) The Secretary of State shall pay all remuneration, allowances or other sums payable under this Act to or in respect of persons who are or have been members of the Advisory Committee ^{F17} . . . , and shall defray—
- ^{F18}(a)
- (b) to such amount as the Secretary of State with the approval of the Minister for the Civil Service may determine, all other expenses duly incurred by the Advisory Committee ^{F17} . . .
- (2) There shall be defrayed out of moneys provided by Parliament—
- (a) all expenses incurred by the Secretary of State in consequence of the provisions of this Act;
- (b) any expenses incurred in consequence of those provisions by any other Minister of the Crown or government department, not being a [^{F19}Northern Ireland department];

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- (c) the remuneration of, and any travelling or other allowances payable under this Act to, the Director and any staff of the Director, any other sums payable under this Act to or in respect of the Director, and any expenses duly incurred by the Director or by any of his staff in consequence of the provisions [F20 of this or any other Act];
- (d) any increase attributable to this Act in the sums payable out of moneys so provided under the M2 Superannuation Act 1972.

(3) F21

Textual Amendments

- F17** Words in s. 135(1) repealed (1.4.1999) by 1998 c. 41, s. 74(1)(3), Sch. 12 para. 1(15)(a), **Sch. 14 Pt. I** (with s. 73); S.I. 1999/505, art. 2, **Sch. 2**
- F18** S. 135(1)(a) repealed (1.4.1999) by 1998 c. 41, s. 74(1)(3), Sch. 12 para. 1(15)(b), **Sch. 14 Pt. I** (with s. 73); S.I. 1999/505, art. 2, **Sch. 2**
- F19** Words substituted by virtue of Northern Ireland Act 1974 (c. 28), **Sch. 1 para. 2(1)(b)(4)**
- F20** Words substituted (4.4.1980) by Competition Act 1980 (c. 21), s. 32(2)
- F21** S. 135(3) repealed by S.I. 1973/2163, **Sch. 6**

Marginal Citations

- M2** 1972 c. 11.

136 F22

Textual Amendments

- F22** S. 136 repealed by Statute Law (Repeals) Act 1977 (c. 18), **Sch. 1 Pt. XIII**

137 General interpretation provisions.

(1) In this Act—

“the Act of 1948” means the M3 Monopolies and Restrictive Practices (Inquiry and Control) Act 1948; F23

F24
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..... F25

“the Act of 1965” means the M4 Monopolies and Mergers Act 1965; F26
.....

“assignment”, in relation to Scotland, means assignment;

“contract of employment” means a contract of service or of apprenticeship, whether it is express or implied, and (if it is express) whether it is oral or in writing;

“scale” (where the reference is to the scale on which any services are, or are to be, made available, supplied or obtained) means scale measured in terms of money or money’s worth or in any other manner.

(2) Except in so far as the context otherwise requires, in this Act, . . . F27 the following expressions have the meanings hereby assigned to them respectively, that is to say—

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[^{F28}“the Advisory Committee” means the Consumer Protection Advisory Committee;]

“agreement” means any agreement or arrangement, in whatever way and in whatever form it is made, and whether it is, or is intended to be, legally enforceable or not;

“business” includes a professional practice and includes any other undertaking which is carried on for gain or reward or which is an undertaking in the course of which goods or services are supplied otherwise than free of charge;

“commercial activities in the United Kingdom” means any of the following, that is to say, the production and supply of goods in the United Kingdom, the supply of services in the United Kingdom and the export of goods from the United Kingdom;

“the Commission” means the [^{F29}Competition] Commission;

“complex monopoly situation” has the meaning assigned to it by section 11 of this Act;

“consumer” (subject to subsection (6) of this section) means any person who is either—

- (a) a person to whom goods are or are sought to be supplied (whether by way of sale or otherwise) in the course of a business carried on by the person supplying or seeking to supply them, or
- (b) a person for whom services are or are sought to be supplied in the course of a business carried on by the person supplying or seeking to supply them,

and who does not receive or seek to receive the goods or services in the course of a business carried on by him;

[^{F28}“the Director” means the Director General of Fair Trading;]

“enactment” includes an enactment of the Parliament of Northern Ireland;

“goods” includes buildings and other structures, and also includes ships, aircraft and hovercraft, . . . ^{F30};

“group” (where the reference is to a group of persons fulfilling specified conditions, other than the condition of being interconnected bodies corporate) means any two or more persons fulfilling those conditions, whether apart from fulfilling them they would be regarded as constituting a group or not;

“merger reference” has the meaning assigned to it by section 5(3) of this Act;

“merger situation qualifying for investigation” has the meaning assigned to it by section 64(8) of this Act;

“Minister” includes a government department but shall not by virtue of this provision be taken to include the establishment consisting of the Director and his staff, and, except where the contrary is expressly provided, does not include any [^{F31}Northern Ireland department];

“monopoly reference” and “monopoly situation” have the meanings assigned to them by section 5(3) of this Act;

“newspaper merger reference” has the meaning assigned to it by section 59(3) of this Act;

“practice” means any practice, whether adopted in pursuance of an agreement or otherwise;

“price” includes any charge or fee, by whatever name called;

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“produce”, in relation to the production of minerals or other substances, includes getting them, and, in relation to the production of animals or fish, includes taking them;

“supply”, in relation to the supply of goods, includes supply by way of sale, lease, hire or hire-purchase, and, in relation to buildings or other structures, includes the construction of them by a person for another person;

“uncompetitive practices” means practices having the effect of preventing, restricting or distorting competition in connection with any commercial activities in the United Kingdom;

“worker” (subject to subsection (7) of this section) has the meaning assigned to it by [^{F32}section 30 of the ^{M5}Trade Union and Labour Relations Act 1974].

(3) In the provisions of this Act . . . ^{F27}“the supply of services” does not include the rendering of any services under a contract of employment but, . . . ^{F27},—

- (a) includes the undertaking and performance for gain or reward of engagements (whether professional or other) for any matter other than the supply of goods, and
- (b) includes both the rendering of services to order and the provision of services by making them available to potential users [^{F33}, and
- (c) includes the making of arrangements for a person to put or keep on land a caravan (within the meaning of Part I of the ^{M6}Caravan Sites and Control of Development Act 1960) other than arrangements by virtue of which the person may occupy the caravan as his only or main residence][^{F34}and
- (d) includes the making of arrangements for the use by public service vehicles (within the meaning of the Public Passenger Vehicles Act 1981) of a parking place which is used as a point at which passengers on services provided by means of such vehicles may be taken up or set down.][^{F35}and
- (e) includes the making of arrangements permitting use of the tunnel system (within the meaning of the Channel Tunnel Act 1987) by a person operating services for the carriage of passengers or goods by rail.][^{F36}and
- (f) includes the making of arrangements, by means of such an agreement as is mentioned in section 189(2) of the Broadcasting Act 1990, for the sharing of the use of any telecommunication apparatus (within the meaning of Schedule 2 to the Telecommunications Act 1984).][^{F37}and
- (g) includes the supply of network services and station services, within the meaning of Part I of the Railways Act 1993;]

and any reference in those provisions to services supplied or to be supplied, or to services provided or to be provided, shall be construed accordingly.

[^{F38}(3A) The Secretary of State may by order made by statutory instrument—

- (a) provide that “the supply of services” in the provisions of this Act is to include, or to cease to include, any activity specified in the order which consists in, or in making arrangements in connection with, permitting the use of land; and
- (b) for that purpose, amend or repeal any of paragraphs (c), (d), (e) or (g) of subsection (3) above.

(3B) No order under subsection (3A) above is to be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

(3C) The provisions of Schedule 9 to this Act apply in the case of a draft of any such order as they apply in the case of a draft of an order to which section 91(1) above applies.]

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- (4) F39
- (5) For the purposes of the provisions of this Act . . . ^{F27}, any two bodies corporate are to be treated as interconnected if one of them is a body corporate of which the other is a subsidiary (within the meaning of [^{F40}section 736 of the Companies Act 1985]) or if both of them are subsidiaries (within the meaning of that section) of one and the same body corporate; and in those provisions “interconnected bodies corporate” shall be construed accordingly, and “group of interconnected bodies corporate” means a group consisting of two or more bodies corporate all of whom are interconnected with each other.
- (6) For the purposes of the application of any provision of this Act in relation to goods or services of a particular description or to which a particular practice applies, “consumers” means persons who are consumers (as defined by subsection (2) of this section) in relation to goods or services of that description or in relation to goods or services to which that practice applies.
- (7) For the purposes of the application of this Act to Northern Ireland, the definition of “worker” in subsection (2) of this section shall apply as if [^{F32}the ^{M7}Trade Union and Industrial Relations Act 1974] extended to Northern Ireland but, in [^{F32}section 30(2) (a)] of that Act, references to general medical services, pharmaceutical services, general dental services or general ophthalmic services provided under the enactments mentioned in that subsection were references to the corresponding services provided in Northern Ireland under the corresponding enactments there in force.
- (8) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment, including this Act.

Textual Amendments

- F23** Words substituted by [Restrictive Trade Practices Act 1976 \(c. 34\)](#), **Sch. 5**
- F24** Words in s. 137(1) repealed (1.3.2000) by S.I. 2000/311, **art. 9(6)**
- F25** Definition repealed by [Resale Prices Act 1976 \(c. 53\)](#), **Sch. 3 Pt. I**
- F26** Definition repealed by [Restrictive Trade Practices Act 1976 \(c. 34\)](#), **Sch. 6**
- F27** Words repealed by [Restrictive Trade Practices Act 1976 \(c. 34\)](#), **Sch. 6**
- F28** Words in s. 137(2) repealed (20.6.2003 for specified purposes) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with arts. 6, 8)
- F29** Definition in s. 137(2) substituted (1.4.1999) by S.I. 1999/506, **art. 14**
- F30** Words repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(4), **Sch. 18**
- F31** Words substituted by virtue of [Northern Ireland Act 1974 \(c. 28\)](#), **Sch. 1 para. 2(1)(b)(4)**
- F32** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\)](#), s. 17(2)(a)
- F33** Word and s. 137(3)(c) inserted (4.4.1980) by [Competition Act 1980 \(c. 21\)](#), s. 23
- F34** S. 137(3)(d) added by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 116(1)
- F35** S. 137(3)(e) added by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), s. 33(10)
- F36** S. 137(3)(f) inserted by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 192(1)
- F37** Words in s. 137(3) inserted (1.4.1994) by 1993 c. 43, s. 66(4); S.I. 1994/571, **art. 5**
- F38** S. 137(3A)-(3C) inserted (1.4.1999) by 1998 c. 41, s. 68 (with s. 73); S.I. 1999/505, art. 2, **Sch. 2**
- F39** S. 137(4) repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(4), **Sch. 18**
- F40** Words substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), s. 30, **Sch. 2**

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Modifications etc. (not altering text)

- C3** Reference to enactment of Parliament of Northern Ireland to be construed as including reference to Measure of Northern Ireland Assembly: [Northern Ireland Constitution Act 1973 \(c. 36\)](#), [Sch. 5 para. 1\(1\)\(2\)](#)

Marginal Citations

- M3** 1948 c. 66.
M4 1965 c. 50.
M5 1974 c. 52.
M6 1960 c. 62.
M7 1974 c. 52.

138 Supplementary interpretation provisions.

- (1) This section applies to the following provisions of this Act, that is to say, section 2(4), [^{F41}Parts II and III,] section 137(6), and the definition of “consumer” contained in section 137(2).
- (2) For the purposes of any provisions to which this section applies it is immaterial whether any person supplying goods or services has a place of business in the United Kingdom or not.
- (3) For the purposes of any provisions to which this section applies any goods or services supplied wholly or partly outside the United Kingdom, if they are supplied in accordance with arrangements made in the United Kingdom, whether made orally or by one or more documents delivered in the United Kingdom or by correspondence posted from and to addresses in the United Kingdom, shall be treated as goods supplied to, or services supplied for, persons in the United Kingdom.
- (4) In relation to the supply of goods under a hire-purchase agreement, a credit-sale agreement or a conditional sale agreement, the person conducting any antecedent negotiations, as well as the owner or seller, shall for the purposes of any provisions to which this section applies be treated as a person supplying or seeking to supply the goods.
- [^{F42}(5) In subsection (4) of this section, the following expressions have the meanings given by, or referred to in, section 189 of the ^{M8}Consumer Credit Act 1974—
 - “antecedent negotiations”,
 - “conditional sale agreement”,
 - “credit-sale agreement”,
 - “hire-purchase agreement”.]
 - (6) In any provisions to which this section applies—
 - (a) any reference to a person to or for whom goods or services are supplied shall be construed as including a reference to any guarantor of such a person, and
 - (b) any reference to the terms or conditions on or subject to which goods or services are supplied shall be construed as including a reference to the terms or conditions on or subject to which any person undertakes to act as such a guarantor;and in this subsection “guarantor”, in relation to a person to or for whom goods or services are supplied, includes a person who undertakes to indemnify the supplier of

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the goods or services against any loss which he may incur in respect of the supply of the goods or services to or for that person.

- (7) For the purposes of any provisions to which this section applies goods or services supplied by a person carrying on a business shall be taken to be supplied in the course of that business if payment for the supply of the goods or services is made or (whether under a contract or by virtue of an enactment or otherwise) is required to be made.

Textual Amendments

- F41** Words in s. 138 repealed (20.6.2003 for specified purposes) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 26](#) (with [Sch. 24](#)); [S.I. 2003/1397](#), art. 2(1), [Sch.](#) (with arts. 3(1), 6, 8)
- F42** S. 138(5) substituted by [Consumer Credit Act 1974 \(c. 39, SIF 60\)](#), s. 192(4), [Sch. 4 Pt. I para. 37](#)

Marginal Citations

- M8** 1974 c. 39.

139 Amendments, repeals and transitional provisions.

- (1) Subject to the transitional provisions and savings contained in Schedule 11 to this Act—
- (a) the enactments specified in Schedule 12 to this Act shall have effect subject to the amendments specified in that Schedule (being minor amendments or amendments consequential upon the preceding provisions of this Act), and
 - (b) the enactments specified in Schedule 13 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (2) The provisions of Schedule 11 to this Act shall have effect for the purposes of this Act.

140 †Short title, citation, commencement and extent.

- (1) This Act may be cited as the Fair Trading Act 1973.
- (2) ^{F43}
- (3) This Act shall come into operation on such day as the Secretary of State may by order made by statutory instrument appoint; and different dates may be so appointed for, or for different purposes of, any one or more of the provisions of this Act (including, in the case of section 139 of this Act, the amendment or repeal of different enactments specified in Schedule 12 or Schedule 13 to this Act or of different provisions of any enactment so specified).
- (4) Where any provision of this Act, other than a provision contained in Schedule 11, refers to the commencement of this Act, it shall be construed as referring to the day appointed under this section for the coming into operation of that provision.
- (5) This Act extends to Northern Ireland.

Textual Amendments

- F43** S. 140(2) repealed by [Restrictive Trade Practices Act 1976 \(c. 34\)](#), [Sch. 6](#)

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Modifications etc. (not altering text)

- C4** Unreliable marginal note.
- C5** Power of appointment conferred by s. 140(3) fully exercised.

Status:

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Changes to legislation:

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