

2003 No. 37

ROAD TRAFFIC

The Motor Vehicles (Compulsory Insurance) (Information Centre and Compensation Body) Regulations 2003

Made - - - - - *10th January 2003*

Laid before Parliament *13th January 2003*

Coming into force - - *19th January 2003*

The Secretary of State for Transport, being a Minister designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to compulsory insurance in respect of, and other means of providing for, civil liability in relation to motor vehicles and trailers, in exercise of the powers conferred by that section hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Motor Vehicles (Compulsory Insurance) (Information Centre and Compensation Body) Regulations 2003 and shall come into force on 19th January 2003.

Interpretation

2.—(1) In these Regulations—

“claims representative” means, in the case of an insurer carrying on the business of effecting or carrying out a UK insurance policy, the person appointed to act as such by that insurer in each EEA State other than the United Kingdom with responsibility and authority for handling and settling claims arising from accidents of the kind mentioned in Article 1(2) of the fourth motor insurance directive;

“compensation body” means the body named in regulation 9;

“EEA State” means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992^(c) and the Protocol adjusting the Agreement signed at Brussels on 17th March 1993;

“European insurance policy” means an insurance policy issued in an EEA State fulfilling the requirements of Article 3 of the first motor insurance directive where the territory in which the vehicle the use of which is insured is normally based is an EEA State other than the United Kingdom;

(a) S.I. 1972/1811.

(b) 1972 c. 68. By virtue of the amendment of section 1(2) of the European Communities Act 1972 by section 1 of the European Economic Area Act 1993 (c. 51) regulations may be made under section 2(2) of the European Communities Act 1972 to implement obligations of the United Kingdom created or arising by or under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073) and the Protocol adjusting the Agreement signed at Brussels on 17th March 1993 (Cm 2183).

(c) Directive 2000/26/EC was added to Annex IX of the European Economic Area Agreement by decision No. 4/2001 of the European Economic Area Joint Committee which came into force on 1st September 2001 (OJ No. L66, 8.3.2001, p. 46).

“first motor insurance directive” means Council Directive 72/166/EEC of 24 April 1972 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles, and to the enforcement of the obligation to insure against such liability(a);

“fourth motor insurance directive” means the Directive of the European Parliament and the Council of 16 May 2000 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and amending Council Directives 73/239/EEC and 88/357/EEC (No. 2000/26/EC) (b);

“foreign compensation body” means a person or body established or approved (by virtue of Article 6(1) of the fourth motor insurance directive) in an EEA State other than the United Kingdom to fulfil like functions to the compensation body;

“foreign information centre” means a person or body established or approved as an information centre in an EEA State other than the United Kingdom by virtue of Article 5(1) of the fourth motor insurance directive;

“guarantee fund” means the Motor Insurers’ Bureau (a company limited by guarantee and incorporated under the Companies Act 1929 on 14th June 1946);

“information centre” means the body named in regulation 3(1);

“injured party” means a person resident in an EEA State claiming to be entitled to compensation in respect of any loss or injury resulting from an accident caused by or arising out of the use of a vehicle;

“registered keeper” in relation to a vehicle means the person who is registered as the keeper under the Vehicle Excise and Registration Act 1994(c) or, in the case of vehicles in the public service of the Crown which are not registered under that Act, the person who has charge of the vehicle;

“MIB” means the Motor Insurers’ Bureau (a company limited by guarantee and incorporated under the Companies Act 1929 on 14th June 1946);

“MIIC” means the Motor Insurers’ Information Centre (a company limited by guarantee and incorporated under the Companies Act 1985 on 8th December 1998);

“open cover contract” means a UK insurance policy where the vehicles covered are not specifically identified in the contract or the covering note;

“second motor insurance directive” means the Second Council Directive 84/5/EEC of 30 December 1983 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles(d);

“specified information” means the information referred to in regulation 4;

“standard contract” means a UK insurance policy where every vehicle covered is specifically identified in the contract or the covering note;

“subscribing State” means a State other than an EEA State whose national insurer’s bureau as defined in Article 1(3) of the first motor insurance directive has joined the Green Card System;

“UK insurance policy” means a policy of insurance (including a covering note) covering the use of a vehicle on a road or other public place in the United Kingdom which—

- (a) fulfils the requirements of section 145 of the Road Traffic Act 1988(e), or article 92 of the Road Traffic (Northern Ireland) Order 1981(f), and
- (b) in the case of a policy of insurance complying with article 92 of the 1981 Order, is issued by an insurer within the meaning of article 12 of that Order;

“vehicle” means any motor vehicle intended for travel on land and propelled by mechanical power, but not running on rails, and any trailer, whether or not coupled.

(2) In these Regulations a reference (however phrased) to a place where a vehicle is normally based is a reference to—

- (a) the territory of the state of which the vehicle bears a registration plate, or

(a) OJ No. L103, 2.5.1972, p. 1.

(b) OJ No. L181, 20.7.2000, p. 65.

(c) 1994 c. 22.

(d) OJ No. L8, 11.1.1984, p. 17.

(e) 1988 c. 52; section 145 was amended by S.I. 1992/3036, 2000/726 and 2001/3649.

(f) S.I. 1981/154 (NI I), Article 92 was amended by SR 1989/84, 1993/57 and 2000/331.

- (b) in cases where no registration is required for the type of vehicle but the vehicle bears an insurance plate or a distinguishing sign analogous to a registration plate, the territory of the state in which the insurance plate or the sign is issued, or
- (c) in cases where neither registration plate nor insurance plate nor distinguishing sign is required for the type of vehicle, the territory of the state in which the keeper of the vehicle is permanently resident.

The information centre

The information centre for the United Kingdom and its duties

3.—(1) MIIC is approved as the information centre for the United Kingdom for the purposes of the fourth motor insurance directive(a).

(2) The information centre shall establish a means of access to the specified information in a manner whereby it can co-ordinate and disseminate that information for the purposes of these Regulations.

(3) The information centre shall retain access to the specified information for a period of not less than seven years commencing on—

- (a) in the case of the information specified in regulation 4(a), (c) and (d), the date on which the vehicle ceases to be registered under the Vehicle Excise and Registration Act 1994, and
- (b) in the case of the information specified in regulation 4(b), the day immediately following the date of expiry of the policy of insurance to which that information relates.

(4) Where the information necessary to enable the information centre to respond to a request from a person under regulation 9 does not form part of the specified information, the information centre shall obtain from the foreign information centre of the territory in which the vehicle is normally based such information as may from time to time be required so as to enable the information centre to comply with regulation 9.

(5) Where the information centre is satisfied that a valid request for the name and address of the registered keeper of a vehicle has been made to it pursuant to regulation 9 it shall immediately seek the information from the Secretary of State.

(6) The information centre shall co-operate with every foreign information centre to the extent necessary to enable those centres to discharge their functions under the fourth motor insurance directive.

The specified information

4. The specified information is—

- (a) a list of all vehicles normally based in the United Kingdom the names and addresses of their registered keepers and the registration marks assigned to them by the Secretary of State;
- (b) the following information in relation to every UK insurance policy under which the use of any such vehicle is insured—
 - (i) the number of the policy,
 - (ii) the name of the policyholder,
 - (iii) the name and address of the insurer,
 - (iv) the names and addresses of that insurer's claims representatives, and
 - (v) the period during which the use of the vehicle is insured under that contract;
- (c) a list of all vehicles which take advantage of the derogation provided in Article 4(a) of the first motor insurance directive (so that they may lawfully be used on a road or other public place in the United Kingdom without there being in force any policy of insurance), and the registration marks assigned to them;

(a) See Article 5.

- (d) the name and address of the person or body designated as responsible for compensating an injured party (in cases where the procedure provided for in the first indent of Article 2(2) of the first motor insurance directive is not applicable) if an accident is caused by or arises out of the use of a vehicle named in the list kept under sub-paragraph (c).

Maintenance and supply of information by insurers

5.—(1) Every insurer shall maintain a record of the information set out in Part 1 of the Schedule to these Regulations for the period specified in regulation 3(3).

(2) Where the information centre so requests an insurer shall supply to it immediately such of that information as may be specified in that request in respect of any UK insurance policy to which that insurer is or was a party.

(3) The information requested—

- (a) shall be supplied in the manner specified in the request, or
- (b) where no manner of supply is specified in the request, may be supplied in any manner except orally.

(4) An insurer shall not be obliged by virtue of this regulation to maintain a record or to supply information if he has used his best endeavours to obtain such information from his insured and the insured has failed or refused to supply the information to the insurer.

(5) Where the information centre so requests, an insurer shall immediately supply to it the name and address of every policyholder to whom it has issued an open cover contract in respect of such period as may be specified in that request.

Maintenance and supply of information by policyholders

6.—(1) Every policyholder who has entered into an open cover contract with an insurer shall maintain in respect of that contract a record of the information set out in Part 2 of the Schedule to these Regulations for the period specified in regulation 3(3).

(2) Where the information centre so requests, any such policyholder shall supply to it immediately so much of the information set out in Part 2 of the Schedule as may be specified in that request in respect of any open cover contract to which he is or was a party.

(3) Every policyholder who has entered into an open cover contract of the type specified in Part 1 of the Schedule with an insurer shall immediately supply to that insurer the information described in Part 1 of the Schedule.

(4) Where any detail of the information set out in Part 1 of the Schedule to these Regulations changes in respect of any open cover contract, the policyholder shall notify the insurer of the changed details immediately.

(5) Any information requested under this regulation—

- (a) shall be supplied in the manner specified in the request, or
- (b) where no manner of supply is specified in the request, may be supplied in any manner except orally.

Maintenance and supply of information by others

7.—(1) Every person who takes advantage of the derogation provided in Article 4(a) of the first motor insurance directive in respect of any vehicle normally based in the United Kingdom shall maintain a record of the information set out in Part 3 of the Schedule for the period specified in regulation 3(3).

(2) Every such person shall supply immediately to the information centre the information set out in Part 3 of the Schedule in respect of any vehicle for which that person is or was the user for more than 14 days.

(3) Where the information centre so requests, every such person shall supply to it immediately so much of the information set out in Part 3 of the Schedule as may be specified in that request in respect of any vehicle which that person is or was the user.

Information held by Secretary of State

8.—(1) The Secretary of State shall immediately notify the information centre in writing of any alteration in the information specified in regulation 4(d).

(2) Where the information centre so requests, the Secretary of State shall without delay supply in writing to the information centre the name and address of the registered keeper of any vehicle specified in that request which is normally based in the UK.

Supply of information by the information centre

9.—(1) This regulation applies where—

- (a) an accident, caused by or arising out of the use of a vehicle which is normally based in an EEA State, occurs in the United Kingdom;
- (b) an accident, caused by or arising out of the use of a vehicle, occurs on the territory of—
 - (i) an EEA State other than the United Kingdom, or
 - (ii) a subscribing state,

and that vehicle is normally based in the United Kingdom;

- (c) an accident, caused by or arising out of the use of a vehicle which is normally based in an EEA State, occurs on the territory of—
 - (i) an EEA State other than the United Kingdom, or
 - (ii) a subscribing state,

and an injured party resides in the United Kingdom.

(2) Where this regulation applies, an injured party may request the information centre to provide to him the information described in paragraph (4) in respect of every vehicle involved in the accident which is normally based in an EEA State.

(3) The information centre shall provide the information requested if the request is—

- (a) made in writing,
- (b) received by the information centre no later than seven years after the date of the accident, and
- (c) contains sufficient information to identify the vehicle in respect of which the information is being sought.

(4) The information which may be requested in respect of a vehicle is—

- (a) the name and address of any insurer who has issued a UK insurance policy or European insurance policy covering the use of that vehicle at the time the accident occurred;
- (b) the number of that policy;
- (c) the name and address of that insurer's claims representative in the state of residence of the injured party; and
- (d) where the information centre is satisfied that the injured party has a legitimate interest in obtaining that information, the name and address of the registered keeper of the vehicle or, where the territory in which the vehicle is normally based is an EEA State other than the United Kingdom, the person having custody of the vehicle.

(5) Where an injured party has requested information in respect of a vehicle which may lawfully be used on a road or other public place in the United Kingdom without there being in force a UK insurance policy, the information centre shall provide the injured party with the name and address of the person or body designated as responsible for compensating injured parties and referred to in regulation 4(d).

(6) The information centre shall provide information pursuant to this regulation in writing immediately after it receives the request.

(7) The information centre may charge a fee of not more than £10.00 for providing that information.

Compensation body for the United Kingdom

10. MIB is approved as the compensation body for the United Kingdom for the purposes of the fourth motor insurance directive(a).

Entitlement to compensation where the insurer is identified

11.—(1) This regulation and regulation 12 apply in a case where—

- (a) an injured party is resident in the United Kingdom,
- (b) that person claims to be entitled to compensation in respect of an accident occurring in an EEA State other than the United Kingdom or in a subscribing state, and
- (c) the loss or injury to which the claim relates has been caused by or arises out of the use of a vehicle which is—
 - (i) normally based in an EEA State other than the United Kingdom, and
 - (ii) insured though an establishment in an EEA State other than the United Kingdom.

(2) Where this regulation applies, the injured party may make a claim for compensation from the compensation body if—

- (a) he has not commenced legal proceedings against the insurer of the vehicle the use of which caused the accident, and
- (b) either of the conditions set out in paragraph (3) is fulfilled.

(3) The conditions are—

- (a) that the injured party has claimed compensation from the insurer of the vehicle or the insurer's claims representative and neither the insurer nor the claims representative has provided a reasoned reply to the claim within the period of three months after the date it was made;
- (b) that the insurer has failed to appoint a claims representative in the United Kingdom, and the injured party has not claimed compensation directly from that insurer.

Response from the compensation body

12.—(1) Upon receipt of a claim for compensation under regulation 11, the compensation body shall immediately notify—

- (a) the insurer of the vehicle the use of which is alleged to have caused the accident, or that insurer's claims representative;
- (b) the foreign compensation body in the EEA State in which that insurer's establishment is situated; and
- (c) if known, the person who is alleged to have caused the accident,

that it has received a claim from the injured party and that it will respond to that claim within two months from the date on which the claim was received.

(2) The compensation body shall respond to a claim for compensation within two months of receiving the claim.

(3) If the injured party satisfies the compensation body as to the matters specified in paragraph (4), the compensation body shall indemnify the injured party in respect of the loss and damage described in paragraph (4)(b).

(4) The matters referred to in paragraph (3) are—

- (a) that a person whose liability for the use of the vehicle is insured by the insurer referred to in regulation 11(1)(c) is liable to the injured party in respect of the accident which is the subject of the claim, and
- (b) the amount of loss and damage (including interest) that is properly recoverable in consequence of that accident by the injured party from that person under the laws applying in that part of the United Kingdom in which the injured party resided at the date of the accident.

(a) See Article 6.

(5) The compensation body shall cease forthwith to act in respect of a claim as soon as it becomes aware that—

- (a) the insurer referred to in regulation 11(1)(c), or the claims representative of that insurer, has made a reasoned response to the claim, or
- (b) the injured party has commenced legal proceedings against the insurer.

Entitlement to compensation where vehicle or insurer is not identified

13.—(1) This regulation applies where—

- (a) an accident, caused by or arising out of the use of a vehicle which is normally based in an EEA State, occurs on the territory of—
 - (i) an EEA State other than the United Kingdom, or
 - (ii) a subscribing State,and an injured party resides in the United Kingdom,
- (b) that injured party has made a request for information under regulation 9(2), and
- (c) it has proved impossible—
 - (i) to identify the vehicle the use of which is alleged to have been responsible for the accident, or
 - (ii) within a period of two months after the date of the request, to identify an insurance undertaking which insures the use of the vehicle.

(2) Where this regulation applies—

- (a) the injured party may make a claim for compensation from the compensation body, and
- (b) the compensation body shall compensate the injured party in accordance with the provisions of Article 1 of the second motor insurance directive as if it were the body authorised under paragraph 4 of that Article and the accident had occurred in Great Britain.

Reimbursement of foreign compensation body where insurer is identified

14.—(1) Where—

- (a) an injured party is resident in an EEA State other than the United Kingdom,
- (b) that person has been compensated in respect of an accident by the foreign compensation body of the State where he resides,
- (c) the foreign compensation body has paid the compensation to that person under a provision corresponding to regulation 12(3),
- (d) the accident in respect of which compensation has been paid was caused by, or arose out of, the use of a vehicle the use of which is insured under a UK insurance policy by an insurer established in the United Kingdom, and
- (e) the place where the vehicle is normally based is an EEA State other than the State in which the injured party resides,

the compensation body shall be liable to indemnify the foreign compensation body.

(2) Where the compensation body has indemnified the foreign compensation body under paragraph (1), it is subrogated to the rights of the injured party against the person who caused the accident or that person's insurer to the extent that it has indemnified the foreign compensation body.

(3) All similar rights of subrogation as provided for in other EEA States are hereby acknowledged to the extent required under Article 6(2) of the fourth motor insurance directive.

Reimbursement of foreign compensation body where insurer is unidentified

15.—(1) This regulation applies where—

- (a) an injured party is resident in an EEA State other than the United Kingdom, and
- (b) that person has been compensated by the foreign compensation body of the State where he resides.

(2) Where this regulation applies, the MIB shall be liable to indemnify the foreign compensation body in the following cases—

- (a) where the accident took place in the United Kingdom and it was caused by or arose from the use of—
 - (i) an unidentified vehicle, or
 - (ii) a vehicle normally based in a territory which is not an EEA State or a subscribing state or part of any such state;
- (b) where the accident was caused by, or arose from the use of, a vehicle normally based in the United Kingdom but it has proved impossible to identify the insurer of that vehicle within 2 months from the date when the request for compensation was lodged with the foreign compensation body.

Miscellaneous

Civil Liability

16. Any sum due and owing pursuant to these Regulations shall be recoverable as a civil debt.

Enforcement

17. If any person fails or refuses to maintain any record or supply any information for the purposes of these regulations, or if in giving any information for the purposes of these Regulations, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, he is guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Signed by the authority of the Secretary of State for Transport

10th January 2003

John Spellar,
Minister of State
Department of Transport

PART 1

INFORMATION TO BE RECORDED BY INSURERS

1. In respect of every standard contract to which the insurer is a party—
 - (a) the number of the policy,
 - (b) the name of the policyholder,
 - (c) the registration mark of every vehicle the use of which is covered by the policy, and
 - (d) the period during which the use of each of those vehicles is (or has been) covered under the policy.
2. In respect of every open cover contract other than a contract in respect of an excepted vehicle to which the insurer is a party—
 - (a) the number of the policy,
 - (b) the name of the policyholder,
 - (c) the registration mark of every vehicle, other than an excepted vehicle, the use of which is from time to time covered under that contract, and
 - (d) the period during which the use of each of those vehicles is (or has been) covered under the policy.
3. In this Schedule an “excepted vehicle” is a vehicle the use of which is covered under the open cover contract for a period of less than 15 days.

PART 2

INFORMATION TO BE RECORDED BY POLICYHOLDERS

In respect of every excepted vehicle insured under an open cover contract to which the policyholder is a party—

- (a) the number of the policy under which the use of the vehicle is insured,
- (b) the registration mark of the vehicle, and
- (c) the period during which the use of the vehicles is (or has been) covered under the policy.

PART 3

INFORMATION TO BE RECORDED BY USERS TAKING ADVANTAGE OF THE DEROGATION PROVIDED IN ARTICLE 4(a) OF THE FIRST MOTOR INSURANCE DIRECTIVE

In respect of every vehicle the use of which on a road or other public place in the United Kingdom is authorised without insurance by virtue of Article 4(a) of the first motor insurance directive—

- (a) the registration mark of the vehicle; and
- (b) the period during which the use of the vehicle is or was authorised by virtue of that derogation.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which are made under section 2(2) of the European Communities Act 1972, give effect in part to the Directive of the European Parliament and the Council of 16 May 2000 on the approximation of laws of the member States relating to insurance against civil liability in respect of the use of motor vehicles and amending Council Directives 73/239/EEC and 88/357/EEC (Fourth Motor Insurance Directive) (No. 2000/26/EC) (OJ No. L181, 20/07/2000, p. 65). The Fourth Motor Insurance Directive supplements the arrangements established by Directives 72/166/EEC, 84/5/EEC and 90/232/EEC.

These Regulations give effect to Articles 5, 6 and 7 of the Fourth Motor Insurance Directive.

In order to assist persons to seek compensation in respect of motor vehicle accidents occurring in an EEA State other than their State of residence, regulation 3 establishes the MIIC as the information centre. That body shall establish a means of access to specified information, so as to allow its dissemination to injured parties in certain circumstances. Further provisions provide that in appropriate cases the information centre is obliged to seek similar information from organisations with like functions established in other EEA States.

Regulation 4 describes the specified information. This includes, in the case of motor vehicles normally based in the United Kingdom, the name and address of the insurer and the number of the insurance policy in respect of any identified vehicle.

Regulation 5 requires each motor insurer to retain relevant information about each motor policy that it has underwritten for at least seven years after the date of expiry of the policy. In respect of open cover policies where the identity of the insured vehicles is not stated on the policy, the insured is obliged to notify his insurer of requisite details of the vehicles covered, unless they will be insured for fewer than 15 days under the policy. In that event, under regulation 6 the insured is obliged to retain relevant details.

Regulation 5 also empowers the information centre to require insurers to supply it with requisite information in respect of United Kingdom based vehicles. (Where vehicles are insured for fewer than 15 days under an open cover policy, the insured may be required to supply this information to the information centre under regulation 6).

Regulation 7 obliges persons taking advantage of the derogation in Article 4(a) of the first motor insurance directive to maintain records of their vehicles and to supply details to the information centre if it so requires.

Regulation 9 empowers an injured party resident in an EEA State to require the information centre to supply him with insurance details in respect of vehicles normally based in a Member State or EEA State where:

- (i) the accident occurs in the United Kingdom; or
- (ii) where the vehicle is usually based in the United Kingdom and the accident occurs in the EEA or a state subscribing to the Green Card Scheme; or
- (iii) where the injured party resides in the United Kingdom and the accident occurs in an EEA State or a state subscribing to the Green Card Scheme.

The right of a person resident in the United Kingdom to obtain this information in respect of an accident occurring within the United Kingdom is therefore provided for, although it is not required pursuant to the Fourth Motor Insurance Directive.

Regulation 10 approves the Motor Insurers' Bureau as the compensation body for the United Kingdom.

Regulation 11 provides that in certain circumstances a person resident in the United Kingdom may claim compensation from the compensation body. The right to claim arises in respect of loss or injury resulting from an accident caused by the use of a motor vehicle in a public place. The accident must have occurred in an EEA State other than the United Kingdom, or in a country subscribing to the Green Card Scheme. The vehicle the use of which caused the damage must normally be based and insured, in an EEA State other than the United Kingdom. The claimant must have sought compensation from the liable insurer or his claims representative. That insurer must have failed to make a reasoned reply within three months. Further rules apply if no claims representative has been appointed. The claimant must not have commenced legal proceedings against the insurer.

Regulation 12 provides that in the circumstances described in regulation 11, and subject to certain provisos, if the injured party proves to the compensation body that the insured person is liable to him, then to the extent that he can prove loss and damage the compensation body must compensate him.

Regulation 13 provides that in certain circumstances a person who resides in the United Kingdom may be able to claim compensation from the compensation body where either the vehicle the use of which caused the damage, or the requisite insurer, cannot be identified. The accident must have occurred in an EEA State other than the United Kingdom, or in a country subscribing to the Green Card Scheme. The vehicle must normally be based in, and insured in, an EEA State other than the United Kingdom.

Regulations 14 and 15 set out circumstances in which the compensation body or the Motor Insurers' Bureau must indemnify a foreign compensation body.

As these Regulations give effect, in part, to the Fourth Motor Insurance Directive a Transposition Note has been prepared setting out how the Government will transpose into UK law the main elements of this Directive. The Transposition Note is available in the libraries of both Houses of Parliament. A hard copy is also available from the following address: Banking and General Insurance Team, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ.

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