O F F E R Y N N A U S T A T U D O L C Y M R U

2020 Rhif 638 (Cy. 146)

ADDYSG, CYMRU

Rheoliadau Dileu Atebolrwydd dros Fenthyciadau i Fyfyrwyr at Gostau Byw (Cymru) 2020

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn yn llywodraethu atebolrwydd dros fenthyciad myfyrwyr sydd gan fyfyrwyr llawnamser sy'n cael benthyciadau at gostau byw gan Weinidogion Cymru mewn cysylltiad â blwyddyn academaidd 2020/2021.

Mae'r Rheoliadau hyn yn darparu ar gyfer dileu hyd at £1,500 o atebolrwydd benthyciwr dros fenthyciad at gostau byw o dan amgylchiadau penodol, gydag effaith o'r diwrnod ar ôl y dyddiad yr ystyrir bod ei ad-daliad cyntaf ar ei fenthyciad wedi ei gael.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

W E L S H S T A T U T O R Y I N S T R U M E N T S

2020 No. 638 (W. 146)

EDUCATION, WALES

The Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2020

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations govern the student loan liability of full-time students who receive loans for living costs from the Welsh Ministers in respect of the academic year 2020/2021.

These Regulations provide for up to £1,500 of a borrower's living costs loan liability to be cancelled in certain circumstances, with effect from the day after the date on which their first loan repayment is considered to have been received.

The Welsh Ministers Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

OFFERYNNAU STATUDOL CYMRU

2020 Rhif 638 (Cy. 146)

ADDYSG, CYMRU

Rheoliadau Dileu Atebolrwydd dros Fenthyciadau i Fyfyrwyr at Gostau Byw (Cymru) 2020

Gwnaed	*23 Mehefin 2020*
Gosodwyd gerbron Senedd Cymru	*25 Mehefin 2020*
Yn dod i rym	*1 Awst 2020*

Mae Gweinidogion Cymru yn gwneud y Rheoliadau a ganlyn drwy arfer y pwerau a roddir i'r Ysgrifennydd Gwladol gan adrannau 22(2)(g), (3)(d) a 42(6) o Ddeddf Addysgu ac Addysg Uwch 1998(**1**) ac sydd bellach yn arferadwy ganddynt hwy(**2**).

Enwi a chychwyn

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Dileu Atebolrwydd dros Fenthyciadau i Fyfyrwyr at Gostau Byw (Cymru) 2020.

(2) Daw'r Rheoliadau hyn i rym ar 1 Awst 2020.

Cymhwyso

2. Mae'r Rheoliadau hyn yn gymwys o ran Cymru ac mewn perthynas â darparu cymorth i fyfyrwyr mewn cysylltiad â Blwyddyn Academaidd 2020/2021.

(**1**) 1998 p. 30.

(**2**) Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol o dan adran 22(2)(g) a (3)(d) o Ddeddf Addysgu ac Addysg Uwch 1998 i Gynulliad Cenedlaethol Cymru i'r graddau y maent yn ymwneud â gwneud darpariaeth o ran Cymru gan adran 44 o Ddeddf Addysg Uwch 2004 (p. 8). Trosglwyddwyd swyddogaeth yr Ysgrifennydd Gwladol yn adran 42(6), i'r graddau y mae'n arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru gan erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) ac Atodlen 1 iddo. Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru i Weinidogion Cymru yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 (p. 32) a pharagraff 30 o Atodlen 11 iddi.

WELSH STATUTORY INSTRUMENTS

2020 No. 638 (W. 146)

EDUCATION, WALES

The Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2020

Made	*23 June 2020*
Laid before Senedd Cymru	*25 June 2020*
Coming into force	*1 August 2020*

The Welsh Ministers make the following Regulations in exercise of the powers conferred upon the Secretary of State by sections 22(2)(g), (3)(d) and 42(6) of the Teaching and Higher Education Act 1998(**1**) and now exercisable by them(**2**).

Title and commencement

1.—(1) The title of these Regulations is the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2020.

(2) These Regulations come into force on 1 August 2020.

Application

2. These Regulations apply in relation to Wales and to the provision of support to students in respect of the Academic Year 2020/2021.

(**1**) 1998 c. 30.

(**2**) The functions of the Secretary of State under section 22(2)(g) and (3)(d) of the Teaching and Higher Education Act 1998 were transferred to the National Assembly for Wales so far as they relate to making provision in relation to Wales by section 44 of the Higher Education Act 2004 (c. 8),. The Secretary of State's function in section 42(6) was transferred, in so far as exercisable in relation to Wales, to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999, article 2 and Schedule 1 (S.I. 1999/672). The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

Dehongli

3. Yn y Rheoliadau hyn—

mae i "Atebolrwydd sydd heb ei Dalu" ("*Outstanding Liability*") yr ystyr a roddir yn rheoliad 7;

ystyr "benthyciad at gostau byw" ("*loan for living costs*") yw benthyciad a geir gan Weinidogion Cymru mewn cysylltiad â Blwyddyn Academaidd 2020/2021 o dan Ran 6 o Reoliadau Addysg (Cymorth i Fyfyrwyr) (Cymru) 2017(**1**) neu o dan Ran 8 o Reoliadau Addysg (Cymorth i Fyfyrwyr) (Cymru) 2018(**2**) mewn cysylltiad â chwrs llawnamser;

ystyr "benthyciwr" ("*borrower*") yw person sydd wedi cael benthyciad at gostau byw;

ystyr "blwyddyn academaidd" ("*academic year*") yw'r cyfnod o ddeuddeng mis sy'n dechrau ar 1 Medi, 1 Ionawr, 1 Ebrill neu 1 Gorffennaf yn y flwyddyn galendr y mae blwyddyn academaidd y cwrs o dan sylw yn dechrau ynddi, yn ôl a yw'r flwyddyn academaidd honno yn dechrau ar neu ar ôl 1 Awst ond cyn 1 Ionawr, ar neu ar ôl 1 Ionawr ond cyn 1 Ebrill, ar neu ar ôl 1 Ebrill ond cyn 1 Gorffennaf, neu ar neu ar ôl 1 Gorffennaf ond cyn 1 Awst, yn y drefn honno;

ystyr "Blwyddyn Academaidd 2020/2021" ("*Academic Year 2020/2021*") yw blwyddyn academaidd sy'n dechrau ar neu ar ôl 1 Medi 2020 ond cyn 1 Medi 2021;

ystyr "Deddf 1998" ("*the 1998 Act*") yw Deddf Addysgu ac Addysg Uwch 1998;

ystyr "Deddf 2008" ("*the 2008 Act*") yw Deddf Gwerthu Benthyciadau Myfyrwyr 2008(**3**);

ystyr "Dyddiad Ad-dalu" ("*Repayment Date*") yw'r diwrnod ar ôl y dyddiad yr ystyrir bod ad-daliad cyntaf y benthyciwr ar ei fenthyciad wedi ei gael naill ai gan Gyllid a Thollau Ei Mawrhydi neu gan Weinidogion Cymru, pa un bynnag yr ystyrir

(**1**) O.S. 2017/47 (Cy. 21), a ddiwygiwyd gan O.S. 2018/191 (Cy. 42), O.S. 2018/814 (Cy. 165), O.S. 2019/235 (Cy. 54), O.S. 2019/424 (Cy. 98) o'r diwrnod cwblhau ("completion day") ymlaen (fel y diffinnir "completion day" gan Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020 p. 1, adran 39(1) i (5)), O.S. 2019/1094, O.S. 2019/1192 (Cy. 209), O.S. 2020/142 (Cy. 25) ac O.S. 2020/143 (Cy. 26).

(**2**) O.S. 2018/191 (Cy. 42), a ddiwygiwyd gan O.S. 2018/813 (Cy. 164), O.S. 2018/814 (Cy. 165), O.S. 2019/235 (Cy. 54), O.S. 2019/424 (Cy. 98) o'r diwrnod cwblhau ("completion day") ymlaen (fel y diffinnir "completion day" gan Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020 p. 1, adran 39(1) i (5)), O.S. 2019/1094, O.S. 2019/1192 (Cy. 209), O.S. 2020/142 (Cy. 25) ac O.S. 2020/143 (Cy. 26).

(**3**) 2008 p. 10.

Interpretation

3. In these Regulations—

"the 1998 Act" ("*Deddf 1998*") means the Teaching and Higher Education Act 1998;

"the 2008 Act" ("*Deddf 2008*") means the Sale of Student Loans Act 2008(**1**);

"academic year" ("*blwyddyn academaidd*") means the period of twelve months beginning on 1 September, 1 January, 1 April or 1 July of the calendar year in which the academic year of the course in question begins, according to whether that academic year begins on or after 1 August but before 1 January, on or after 1 January but before 1 April, on or after 1 April but before 1 July, or on or after 1 July but before 1 August, respectively;

"Academic Year 2020/2021" ("*Blwyddyn Academaidd 2020/2021*") means an academic year which begins on or after 1 September 2020 but before 1 September 2021;

"borrower" ("*benthyciwr*") means a person who has received a loan for living costs;

"loan for living costs" ("*benthyciad at gostau byw*") is a loan received from the Welsh Ministers in respect of the Academic Year 2020/2021 under Part 6 of the Education (Student Support) (Wales) Regulations 2017(**2**) or under Part 8 of the Education (Student Support) (Wales) Regulations 2018(**3**) in respect of a full-time course;

"Outstanding Liability" ("*Atebolrwydd sydd heb ei Dalu*") has the meaning given in regulation 7;

"Repayment Date" ("*Dyddiad Ad-dalu*") means the day after the date on which the borrower's first loan repayment is considered to have been received by either Her Majesty's Revenue and Customs or the Welsh Ministers, whichever is considered (in accordance with regulations made under section 22 of the 1998 Act(**4**)) to have received it first;

(**1**) 2008 c. 10.

(**2**) S.I. 2017/47 (W. 21), amended by S.I. 2018/191 (W. 42), S.I. 2018/814 (W. 165), S.I. 2019/235 (W. 54), S.I. 2019/424 (W. 98) as from the "completion day" (as defined by the European Union (Withdrawal Agreement) Act 2020 c. 1, section 39(1) to (5)), S.I. 2019/1094, S.I. 2019/1192 (W. 209), S.I. 2020/142 (W. 25) and S.I. 2020/143 (W. 26).

(**3**) S.I. 2018/191 (W. 42), amended by S.I. 2018/813 (W. 164), S.I 2018/814 (W. 165), S.I. 2019/235 (W. 54), S.I. 2019/424 (W. 98) as from the "completion day" (as defined by the European Union (Withdrawal Agreement) Act 2020 c. 1, section 39(1) to (5)), S.I. 2019/1094, S.I. 2019/1192) (W. 209) S.I. 2020/142 (W. 25) and S.I. 2020/143 (W. 26).

(**4**) At the time of making these Regulations, the date on which a borrower's repayment is considered to have been received is determined in accordance with regulation 17 of the Education (Student Loans) (Repayment) Regulations 2009 (S.I. 2009/470).

iddo ei gael gyntaf (yn unol â rheoliadau a wneir o dan adran 22 o Ddeddf 1998(**1**));

mae i "Dyddiad Bodloni" ("*Satisfaction Date*") yr ystyr a roddir yn rheoliad 9;

mae "Gweinidogion Cymru" ("*Welsh Ministers*") yn cynnwys unrhyw berson y mae Gweinidogion Cymru wedi trosglwyddo neu wedi dirprwyo eu swyddogaethau iddo o dan adran 23 o Ddeddf 1998(**2**) neu unrhyw berson y maent wedi trosglwyddo eu hawliau iddo o dan adran 9 o Ddeddf 2008; ac

mae i "Swm Penodedig" ("*Specified Amount*") yr ystyr a roddir yn rheoliad 6.

Y cymhwyster ar gyfer dileu

4. Mae benthyciwr yn gymwys i gael y Swm Penodedig o'i Atebolrwydd sydd heb ei Dalu wedi ei ddileu o dan yr amgylchiadau a nodir yn rheoliad 5 ("yr Amgylchiadau").

Yr Amgylchiadau

5. Yr Amgylchiadau at ddibenion rheoliad 4 yw bod Gweinidogion Cymru yn ystyried, ar y Dyddiad Ad-dalu—

(a) nad yw'r benthyciwr wedi torri unrhyw rwymedigaeth a geir mewn unrhyw gytundeb ar gyfer benthyciad myfyriwr neu mewn unrhyw reoliadau a wneir o dan adran 22 o Ddeddf 1998;

(b) nad oes gan y benthyciwr gosbau, costau, treuliau neu ffioedd sydd heb eu talu mewn perthynas ag unrhyw fenthyciad o'r fath yn unol ag unrhyw gytundeb neu reoliadau o'r fath; ac

(c) nad yw'r benthyciwr wedi cael unrhyw o'i atebolrwydd i dalu mewn cysylltiad â benthyciad a gafwyd gan Weinidogion Cymru wedi ei ddileu (gan gynnwys dilead o £0.00) o dan ddarpariaethau—

(i) Rheoliadau Dileu Atebolrwydd dros Fenthyciadau i Fyfyrwyr at Gostau Byw (Cymru) 2010(**3**);

(**1**) Ar adeg gwneud y Rheoliadau hyn, penderfynir ar y dyddiad yr ystyrir bod ad-daliad benthyciwr wedi ei gael yn unol â rheoliad 17 o Reoliadau Addysg (Benthyciadau i Fyfyrwyr) (Ad-dalu) 2009 (O.S. 2009/470).

(**2**) Diwygiwyd adran 23 gan adran 146 o Ddeddf Dysgu a Sgiliau 2000 (p. 21), O.S. 2002/808 ac O.S. 2010/1158.

(**3**) O.S. 2010/1704 (Cy. 164).

"Satisfaction Date" ("*Dyddiad Bodloni*") has the meaning given in regulation 9;

"Specified Amount" ("*Swm Penodedig*") has the meaning given in regulation 6; and

"Welsh Ministers" ("*Gweinidogion Cymru*") includes any person to whom they have transferred or delegated their functions under section 23 of the 1998 Act(**1**) or to whom they have transferred their rights under section 9 of the 2008 Act.

Qualification for cancellation

4. A borrower qualifies for cancellation of the Specified Amount of their Outstanding Liability in the circumstances set out in regulation 5 ("the Circumstances").

Circumstances

5. The Circumstances for the purposes of regulation 4 are that the Welsh Ministers consider that, on the Repayment Date, the borrower—

(a) is not in breach of any obligation contained in any agreement for a student loan or in any regulations made under section 22 of the 1998 Act;

(b) does not have outstanding penalties, costs, expenses or charges in relation to such a loan pursuant to any such agreement or regulations; and

(c) has not received a cancellation (including a cancellation of £0.00) under the provisions of—

(i) the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2010(**2**);

(**1**) Section 23 was amended by section 146 of the Learning and Skills Act 2000 (c. 21), S.I. 2002/808 and S.I. 2010/1158.

(**2**) S.I. 2010/1704 (W. 164).

(ii) Rheoliadau Dileu Atebolrwydd dros Fenthyciadau i Fyfyrwyr at Gostau Byw (Cymru) 2011(**1**);

(iii) Rheoliadau Dileu Atebolrwydd dros Fenthyciadau i Fyfyrwyr at Gostau Byw (Cymru) 2012(**2**);

(iv) Rheoliadau Dileu Atebolrwydd dros Fenthyciadau i Fyfyrwyr at Gostau Byw (Cymru) 2013(**3**);

(v) Rheoliadau Dileu Atebolrwydd dros Fenthyciadau i Fyfyrwyr at Gostau Byw (Cymru) 2014(**4**);

(vi) Rheoliadau Dileu Atebolrwydd dros Fenthyciadau i Fyfyrwyr at Gostau Byw (Cymru) 2015(**5**);

(vii) Rheoliadau Dileu Atebolrwydd dros Fenthyciadau i Fyfyrwyr at Gostau Byw (Cymru) 2016(**6**);

(viii) Rheoliadau Dileu Atebolrwydd dros Fenthyciadau i Fyfyrwyr at Gostau Byw (Cymru) 2017(**7**);

(ix) Rheoliadau Dileu Atebolrwydd dros Fenthyciadau i Fyfyrwyr at Gostau Byw (Cymru) 2018(**8**); neu

(x) Rheoliadau Dileu Atebolrwydd dros Fenthyciadau i Fyfyrwyr at Gostau Byw (Cymru) 2019(**9**).

Y Swm Penodedig

6. Y Swm Penodedig yw'r swm lleiaf o'r canlynol—

(a) £1,500; neu

(b) yr Atebolrwydd sydd heb ei Dalu.

Yr Atebolrwydd sydd heb ei Dalu

7.—(1) Yn ddarostyngedig i baragraff (2), yr Atebolrwydd sydd heb ei Dalu yw'r cyfanswm yr ystyrir ei fod yn daladwy gan y benthyciwr ar y Dyddiad Ad-dalu mewn cysylltiad ag unrhyw

(ii) the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2011(**1**);

(iii) the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2012(**2**);

(iv) the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2013(**3**);

(v) the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2014(**4**);

(vi) the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2015(**5**);

(vii) the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2016(**6**);

(viii) the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2017(**7**);

(ix) the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2018(**8**); or

(x) the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2019(**9**)

of any of their liability for payment in respect of a loan received from the Welsh Ministers.

Specified Amount

6. The Specified Amount is the lesser of—

(a) £1,500; or

(b) the Outstanding Liability.

Outstanding Liability

7.—(1) Subject to paragraph (2), the Outstanding Liability is the total amount considered to be payable by the borrower on the Repayment Date in respect of any loan for living costs, but does not include any

(**1**) O.S. 2011/1654 (Cy. 189).
(**2**) O.S. 2012/1518 (Cy. 201).
(**3**) O.S. 2013/1396 (Cy. 135).
(**4**) O.S. 2014/1314 (Cy. 134).
(**5**) O.S. 2015/1418 (Cy. 142).
(**6**) O.S. 2016/48 (Cy. 20).
(**7**) O.S. 2017/489 (Cy. 102).
(**8**) O.S. 2018/818 (Cy. 166).
(**9**) O.S. 2019/1073 (Cy. 191).

(**1**) S.I. 2011/1654 (W. 189).
(**2**) S.I. 2012/1518 (W. 201).
(**3**) S.I. 2013/1396 (W. 135).
(**4**) S.I. 2014/1314 (W. 134).
(**5**) S.I. 2015/1418 (W. 142).
(**6**) S.I. 2016/48 (W. 20).
(**7**) S.I. 2017/489 (W. 102).
(**8**) S.I. 2018/818 (W. 166).
(**9**) S.I. 2019/1073 (W. 191).

fenthyciad at gostau byw, ond nid yw'n cynnwys unrhyw log sydd wedi cronni nac unrhyw gosbau, costau, treuliau neu ffioedd yr aed iddynt mewn cysylltiad ag unrhyw fenthyciad o'r fath.

(2) At ddibenion rheoliad 9, yr Atebolrwydd sydd heb ei Dalu yw'r cyfanswm yr ystyrir ei fod yn daladwy gan y benthyciwr ar y Dyddiad Bodloni mewn cysylltiad ag unrhyw fenthyciad at gostau byw, ond nid yw'n cynnwys unrhyw log sydd wedi cronni nac unrhyw gosbau, costau, treuliau neu ffioedd yr aed iddynt mewn cysylltiad ag unrhyw fenthyciad o'r fath.

(3) At ddibenion cyfrifo'r Atebolrwydd sydd heb ei Dalu ym mharagraffau (1) a (2), cyfrifir y swm yr ystyrir ei fod yn daladwy gan y benthyciwr yn unol â rheoliadau a wneir yn unol ag adran 22 o Ddeddf 1998(**1**).

Dileu

8. O dan yr Amgylchiadau yn rheoliad 5, rhaid i Weinidogion Cymru ddileu'r Swm Penodedig gydag effaith o'r Dyddiad Ad-dalu.

9. Os oes unrhyw un neu ragor o'r Amgylchiadau yn rheoliad 5 heb ei fodloni neu heb eu bodloni ar y Dyddiad Ad-dalu, ond ei fod yn cael ei fodloni neu eu bod yn cael eu bodloni ar ddyddiad diweddarach, caiff Gweinidogion Cymru ddileu'r Swm Penodedig gydag effaith o'r dyddiad y maent yn ystyried y cafodd yr Amgylchiadau eu bodloni ("y Dyddiad Bodloni").

interest accrued or any penalties, costs, expenses or charges incurred in respect of any such loan.

(2) For the purposes of regulation 9, the Outstanding Liability is the total amount considered to be payable by the borrower on the Satisfaction Date in respect of any loan for living costs, but does not include any interest accrued or any penalties, costs, expenses or charges incurred in respect of any such loan.

(3) For the purposes of calculating the Outstanding Liability in paragraphs (1) and (2), the amount considered to be payable by the borrower is calculated in accordance with regulations made pursuant to section 22 of the 1998 Act(**1**).

Cancellation

8. In the Circumstances in regulation 5, the Welsh Ministers must cancel the Specified Amount with effect from the Repayment Date.

9. If any of the Circumstances in regulation 5 are not satisfied on the Repayment Date, but they become satisfied at a later date, the Welsh Ministers may cancel the Specified Amount with effect from the date that they consider the Circumstances to have been satisfied ("the Satisfaction Date").

Kirsty Williams

Y Gweinidog Addysg, un o Weinidogion Cymru
23 Mehefin 2020

Minister for Education, one of the Welsh Ministers
23 June 2020

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(**1**) Ar adeg gwneud y Rheoliadau hyn penderfynir ar y swm yr ystyrir bod benthyciwr wedi ei ad-dalu ac felly'r swm yr ystyrir ei fod yn dal yn daladwy yn unol â Rheoliadau Addysg (Benthyciadau i Fyfyrwyr) (Ad-dalu) 2009 (O.S. 2009/470). Gweler yn benodol reoliadau 17, 29, 44 ac 76.

(**1**) At the time of making these Regulations the amount which a borrower is considered to have repaid and therefore the amount that is considered to still be payable is determined in accordance with the Education (Student Loans) (Repayment) Regulations 2009 (S.I. 2009/470). See in particular regulations 17, 29, 44 and 76.

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