

2015 No. 108

PLANNING

**The Planning (Listed Buildings) Regulations (Northern Ireland)
2015**

Made - - - - - *26th February 2015*

Coming into operation - - - - - *1st April 2015*

The Department of the Environment makes the following Regulations in exercise of the powers conferred on it by sections 42 (as applied by section 87(1) and (2)), 80(5), 86, 95(2), 100(2), 107(2), 181(1) and 247(1) and (6) of the Planning Act (Northern Ireland) 2011^(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Planning (Listed Buildings) Regulations (Northern Ireland) 2015 and shall come into operation on 1st April 2015.

(2) In these Regulations—

“appropriate council” means the council for the district in which building is situated;

“council” means a district council;

“electronic communication” has the meaning assigned to it by section 4 of the Electronic Communication Act (Northern Ireland) 2001^(b);

any reference to a section is a reference to a section of the Planning Act (Northern Ireland) 2011.

(3) In these Regulations, and in relation to the use of electronic communications for any purpose of these Regulations which is capable of being carried out electronically—

(a) the expression “address” includes any number or address used for the purpose of such communications, except that where these Regulations impose any obligation on any person to provide a name and address to any other person, the obligation is not fulfilled unless the person on whom it is imposed provides a postal address;

(b) references to plans, notices or other documents or to copies of such things include references to such documents or copies of them in electronic form.

(4) Paragraphs (5) to (8) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Regulations to give or send any plan, notice or other document to any other person (“the recipient”).

(5) The requirement must be taken to be fulfilled where the plan, notice or other document transmitted by means of electronic communication is—

(a) capable of being accessed by the recipient;

(b) legible in all material respects; and

(a) 2011 c.25 (N.I.)

(b) 2001 c.9 (N.I.) as amended by 2003 c.21

(c) sufficiently permanent to be used for subsequent reference.

(6) In paragraph (5), “legible in all material respects” means that the information contained in the notice or document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(7) Where the electronic communication is received by the recipient outside the recipient’s business hours, it must be taken to have been received on the next working day; and for this purpose “working day” means a day which is not a Saturday, Sunday or a public holiday.

(8) A requirement in these Regulations that any document should be in writing is fulfilled where that document meets the criteria in paragraph (5).

Applications for listed building consent

2.—(1) An application for listed building consent must be made in writing to the appropriate council.

(2) An application for such consent must include—

- (a) a description of the works to which it relates;
- (b) the postal address of the building to which the works relate, or if the building in question has no postal address, a description of the location of the building; and
- (c) the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent.

(3) The application must be accompanied by—

- (a) a plan—
 - (i) sufficient to identify the building to which it relates; and
 - (ii) showing the location of the building in relation to the locality; and
- (b) such other plans and drawings as are necessary to describe the works which are the subject of the application.

(4) The council may give directions either generally or in relation to a particular case specifying the kinds of particulars, plans or information to be contained in an application.

Applications for approval required by a condition

3.—(1) An application for the approval of a council or, as the case may be, the Department required by a condition imposed on a grant of listed building consent must be made in accordance with this regulation.

(2) An application for such approval must be in writing and must include—

- (a) sufficient information to enable the council or, as the case may be, the Department to identify the previous grant of listed building consent;
- (b) a description of the works in respect of which the application is made; and
- (c) the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent.

(3) The application must be accompanied by such plans and drawings as are necessary to describe the works to which it relates.

(4) The council or, as the case may be, the Department may give directions either generally or in relation to a particular case specifying the kinds of particulars, plans or information to be included in an application.

Design and access statements

4.—(1) An application under regulation 2 must be accompanied by a statement (“a design and access statement”) which explains—

- (a) the design principles and concepts that have been applied to the works;

- (b) how the design principles and concepts that have been applied to the works take account of—
 - (i) the special architectural or historic importance of the building;
 - (ii) the particular physical features of the building that justify its designation as a listed building; and
 - (iii) the building’s setting; and
 - (c) subject to paragraph (3), how issues relating to access to the building have been dealt with.
- (2) Subject to paragraph (3), a design and access statement shall also—
- (a) explain the policy adopted as to access, including what alternative means of access have been considered;
 - (b) explain how the policy as to access takes account of—
 - (i) the special architectural or historical importance of the building;
 - (ii) the particular physical features of the building that justify its designation as a listed building; and
 - (iii) the building’s setting;
 - (c) state what, if any, consultation has been undertaken and what account has been taken of the outcome of any such consultation; and
 - (d) explain how any specific issues which might affect access to the building have been addressed.
- (3) Paragraphs (1)(c) and (2) do not apply in relation to an application for listed building consent to carry out works affecting only the interior of the building.

Certificates and notices to accompany applications and appeals

5. Certificates and notices for the purposes of section 42 (notification of applications to certain persons) as applied by section 87 (notification of applications for listed building consent to certain persons), and section 87 as applied by section 96(6) (appeal against decision) and 97 (appeal against failure to take decision), must be in the form set out in Schedule 1.

Duty of council to consult on applications for listed building consent

6.—(1) Before determining an application for listed building consent the council must consult with the Department and must, in determining the application, take into account any representations made by it.

(2) Where the Department is consulted under paragraph (1) it must respond within—

- (a) 21 days; or
- (b) such other period as is agreed in writing between the council and the Department;

starting on the date on which it receives the information specified in regulation 2(2)(a) and (b) and (3).

Publication of notices of applications

7.—(1) Where an application is made to a council for listed building consent, it—

- (a) must publish notice of the application in at least one newspaper circulating in the locality in which the building to which the application relates is situated; and
- (b) must where it maintains a website for the purpose of advertisement of applications, publish the notice on that website; and

- (c) must not determine the application before the expiration of 14 days from the date on which notice of the application is first published in a newspaper in pursuance of sub-paragraph (a) or is first published on the website whichever is the later.

(2) Where an application is referred to the Department under section 88 (call in of certain applications for listed building consent to the Department) then, if the council has not published notice of the application in accordance with paragraph (1)(a) and (b) the Department shall publish notice of the application as if the reference in that paragraph to the council were a reference to the Department.

Determination of application

8.—(1) In determining any application for listed building consent the council or, as the case may be, the Department must take into account any representations relating to that application which are received by it before the expiration of the period of 14 days from the date on which notice of the application is first published in a newspaper in pursuance of regulation 7(1)(a) or is first published on the website, whichever is the later.

(2) In determining an application for listed building consent which is accompanied by a certificate as described in section 42(1)(c) or (d), the council or, as the case may be, the Department—

- (a) must take into account any representations relating to the application which are made to it by any person who satisfies it that, in relation to the building to which the application relates, he or she is such a person as is described in section 42(1)(c); and
- (b) must give notice of its decision on the application to every person who made representations which it was required to take into account under sub-paragraph (a).

(3) References in this regulation to section 42 are to that section as applied by section 87.

Notification of decision

9.—(1) Where a council has received an application for listed building consent, the council must give notice to the applicant of its decision on the application or of the reference of the application to the Department within a period of 8 weeks from the date of receipt of the application or (except where the applicant has already given notice of appeal to the planning appeals commission) such longer period as may be agreed upon in writing between the applicant and the council.

(2) Where a council has received an application for any approval required by a condition imposed on a grant of listed building consent the council must give notice to the applicant of its decision on the application within a period of 8 weeks from the date of receipt of the application or (except where the applicant has already given notice of appeal to the planning appeals commission) such longer period as may be agreed upon in writing between the applicant and the council.

(3) The council or, as the case may be, the Department must state in the notice of decision its reasons for—

- (a) any refusal; or
- (b) any decision to attach a condition to a listed building consent.

(4) Where a request has been made to the Secretary of State for a certificate in respect of section 235(1) (national security) or the Department of Justice in respect of section 235(4), the period specified in paragraphs (1) and (2) shall begin on the date that the council is notified of that decision.

Applications to councils for consent to execute works without compliance with conditions previously attached

10.—(1) An application to a council under section 95 (consent to execute works without compliance with conditions previously attached) must be made in accordance with this regulation.

- (2) An application for such consent must be made in writing and must contain—
- (a) a description of the works in respect of which the application is made;
 - (b) sufficient information to enable the council to identify the previous consent and any condition in question;
 - (c) a statement that the application is made under section 95; and
 - (d) the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent.

(3) The application must be accompanied by a further copy of such plans and drawings as are necessary to describe the works to which it relates.

(4) Regulations 4 to 9 apply in relation to an application under this regulation as they apply in relation to an application for listed building consent under regulation 2, but the reference in regulation 6(2) to “regulation 2(2)(a) and (b) and (3)” shall apply as if there were substituted a reference to “regulation 10(2)(a) to (c) and (3)”.

Applications to the Department for consent to execute works without compliance with conditions previously attached

11.—(1) Where an application under section 95 is required to be made to the Department, regulations 4, 5, 7(1) and 10(1), (2) and (3) shall apply to that application and references to a council shall be construed as a reference to the Department.

(2) Where an application under section 95 is made to the Department it shall consult the appropriate council.

(3) For the purpose of considering representations made in respect of an application under section 95 the Department may cause a public local inquiry to be held by—

- (a) the planning appeals commission;
- (b) a person appointed by the Department for the purpose.

(4) Where a public local inquiry is not held under paragraph (3) the Department must, before determining the application, serve a notice on the applicant and the appropriate council indicating the decision which it proposes to make on the application; and if within such period as may be specified in that behalf in the notice (not being less than 28 days from the date of service of the notice), the applicant or the council so requests in writing, the Department shall afford to each of them an opportunity of appearing before and being heard by—

- (a) the planning appeals commission; or
- (b) a person appointed by the Department for the purpose.

(5) In determining an application under section 95 the Department must, where any inquiry or hearing is held, take into account any report of the planning appeals commission or a person appointed by the Department for the purposes of the inquiry or hearing, as the case may be.

(6) The decision of the Department on an application under section 95 shall be final.

Claims for compensation

12. A claim for compensation made under section 181 (compensation where listed building consent revoked or modified) shall be made in writing and must be received by the council within 6 months from the date of the order in respect of which the claim is made or within such extended period as the council may allow.

Use of electronic communications

13.—(1) Paragraphs (2) and (3) of this regulation apply where a person uses electronic communications for any of the following purposes—

- (a) making an application under regulation 2, for listed building consent;

- (b) making an application under regulation 3, for approval required by a condition imposed on a grant of listed building consent;
- (c) making an application under regulations 10 or 11, for consent to execute works without compliance with conditions previously attached;
- (d) making a claim for compensation under regulation 12.

(2) In a case to which this paragraph applies, and except where a contrary intention appears, the person making the application or claim is taken to have agreed—

- (a) to the use of electronic communications for all purposes relating to the application or claim (as the case may be) which are capable of being effected using such communications;
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, the application or claim;
- (c) that the person's deemed agreement under this paragraph subsists until that person gives notice in writing that he or she wishes to revoke the agreement and such withdrawal or revocation will be final and will take effect on a date specified by that person in the notice but not less than 7 days after the date on which the notice is given.

(3) In regulation 2(3)(a) the requirement that an application for listed building consent must be accompanied by a plan sufficient to identify the building is satisfied where the applicant identifies the building on an electronic map provided by the council and for this purpose a map is taken to be provided where the council has published it on its website.

Advertisement of unopposed revocation or modification order

14. Where by virtue of the provisions of section 100(2) (procedure for section 98 orders: unopposed cases) the making of an order under section 98 (revocation or modification of listed building consent by council) in respect of works to a building is required to be advertised, the council must publish the advertisement in the same manner as is prescribed in relation to an application for listed building consent by regulation 7(1)(a) and (b).

Form of notice that a building has become, or ceased to be, listed

15. Notices for the purposes of section 80(5) (lists of buildings of special architectural or historic interest) must be in the form set out in Schedule 2.

Applications by interested councils

16.—(1) These Regulations apply to applications for listed building consent by an interested council.

(2) In this regulation “interested council” has the same meaning as in section 107(6).

Revocation

17. The Planning (Listed Buildings) Regulations (Northern Ireland) 1992(a) are revoked.

(a) S.R. 1992 No.263

Sealed with the Official Seal of the Department of the Environment on 26th February 2015.



Angus Kerr

A senior officer of the Department of the Environment

PART 1

Planning Act (Northern Ireland) 2011

Certificate under section 42 as applied by Chapter 1 of Part 4

Certificate A

I HEREBY CERTIFY that the accompanying application/appeal is made by or on behalf of (Name of applicant/appellant) who is in actual possession of every part of the land (insert address or location of building) to which the said application/appeal relates and is entitled to a fee simple absolute/ a fee tail/ a life estate/ a tenancy of which at least 40 years remain unexpired in the land.

OR

Certificate B

I HEREBY CERTIFY that the accompanying application/appeal is made by or on behalf of (Name of applicant/appellant) who is the trustee of a trust or settlement which affects every part of the land (insert address or location of building) to which the accompanying application/appeal relates and that at the date of the application/appeal—

(a) a beneficiary under the trust or settlement in the actual possession of every part of the land; and

(b) no person other than a beneficiary under the trust or settlement is entitled to enter into the actual possession of any part of the said land within a period of 40 years.

OR

Certificate C

I HEREBY CERTIFY that the requisite notice of the accompanying application/appeal has been given by or on behalf of (Name of applicant/appellant) to each person who, at the beginning of the period of 21 days ending with the date of the said application/appeal was, in relation to all or any part of the land (insert address or location of building) to which the application/appeal relates—

(a) a person then in actual possession and is entitled to a fee simple absolute/ a fee tail/ a life estate/ a tenancy of which at least 40 years remains unexpired;

(b) the trustee of a trust or settlement where a beneficiary under the trust or settlement was in actual possession and no person other than such a beneficiary was entitled to enter into actual possession within a period of 40 years;

(c) a person (not being a person falling within (a) or (b)) in actual possession;

(d) a person (not being a person falling within (a) to (c)) entitled to enter into actual possession within a period of 40 years.

The persons upon whom notice was served are:—

Name and Address	Interest	Date of Service of Notice

OR
Certificate D

1. I HEREBY CERTIFY that the person making the accompanying application/appeal—

(a) is unable to issue a certificate in accordance with either section 42(1)(a) or (b) of the Planning Act (Northern Ireland) 2011;

(b) has made due enquiries and is of the opinion that he is unable to issue a certificate which would satisfy the requirements of section 42(1)(c) of the said Act for the following reasons:—

.....
.....
.....and;

(c) has given the requisite notice of the said application/appeal to the under-mentioned persons who, at the beginning of the period of 21 days ending with the date of the said application/appeal, were in the actual possession of any part of the land (insert address or location of building) to which the application/appeal relates, namely:—

Names and Address	Date of Service of Notice

2. Notice of the application/appeal has been published in the (title of newspaper) on (date of publication) and a copy of the newspaper in which the notice appeared is enclosed.

Signature of Applicant or Agent.....

Date.....

PART 2
PLANNING ACT (NORTHERN IRELAND) 2011

Notice of an application for listed building consent under section 42, as applied by section 87 of the 2011 Act

[Notice for service on individuals]

(a) Insert address or location of building

Proposal to carry out works for (demolishing) (altering) (extending)*

(a).....

TAKE NOTICE that application under the Planning Act (Northern Ireland) 2011 is being made to the [(1)] [Department of the Environment]*by

(b) Insert name of applicant

(b).....
for listed building consent to

(c) Insert description of proposed works

(c).....
.....
.....

If you wish to make representations about the application you should make them in writing to the [council / Department*] within 14 days from the date of service of this notice.

Signature of Applicant or

Agent.....

Date.....

Notes

*Delete where inappropriate.

(1) Insert name of council.

PLANNING ACT (NORTHERN IRELAND) 2011

Notice of an application for listed building consent under section 42, as applied by section 87 of the 2011 Act

[Notice for publication in local newspaper]

(a) Insert address or location of building

Proposal to carry out works for (demolishing) (altering) (extending)*

(a)

NOTICE IS HERBY GIVEN that application under the Planning Act (Northern Ireland) 2011 is being made to the

[(1) [Department of the Environment]* by

(b) Insert name of applicant

(b)

for listed building consent.

Any person having an interest in the land or building which entitles him to make representations about the proposed works may make such representations in writing to the [council] [Department]* within 14 days from the date of publication of this notice.

Notes

* Delete where inappropriate.

(1) Insert name of council.

PART 3

PLANNING ACT (NORTHERN IRELAND) 2011

Notice of an appeal against refusal, etc., of listed building consent, under section 42 as applied by sections 87 (as applied by sections 96(6) and 97), of the 2011 Act

[Notice for service on individuals]

(a) Insert address or location of building

Proposal to carry out works for (demolishing) (altering) (extending)*

(a).....

TAKE NOTICE that an appeal under the Planning Act (Northern Ireland) 2011 is being made by

(b) Insert name of applicant

(b).....

against the decision of [(1)] on an application for listed building consent to

(c) Insert description of proposed works

(c).....

.....

.....

If you wish to make representations about the application you should make them in writing to the Planning Appeals Commission within 14 days from the date of service of this notice.

Signature of Applicant or

Agent.....

Date.....

Notes

* Delete where inappropriate.

(1) Insert name of council.

PLANNING ACT (NORTHERN IRELAND) 2011

Notice of an appeal against refusal, etc., of listed building consent, under section 42 as applied by sections 87 (as applied by sections 96(6) and 97), of the 2011 Act

[Notice for publication in local newspaper]

(a) Insert address or location of building

Proposal to carry out works for (demolishing) (altering) (extending)*

(a)

NOTICE IS HERBY GIVEN that an appeal under the Planning Act (Northern Ireland) 2011 is being made by

(b) Insert name of appellant

(b)

against the decision of the [(1)] on an application for listed building consent.

Any person having an interest in the land or building which entitles him to make representations about the appeal may make such representations in writing to the Planning Appeals Commission within 14 days from the date of publication of this notice.

Notes

* Delete where inappropriate.

(1) Insert name of council.

SCHEDULE 2

Regulation 15

NOTICE THAT A BUILDING HAS BECOME LISTED

IMPORTANT – This communication affects YOUR PROPERTY

Planning Act (Northern Ireland) 2011
Buildings of special architectural or historic interest

To:

NOTICE IS HEREBY GIVEN that the building known as.....situated in..... has been included in the list of buildings of special architectural or historic interest in that area, compiled by the Department of the Environment under section 80 of the Planning Act (Northern Ireland) 2011 on

Dated

.....
Authorised Officer

NOTE

Listing of buildings of special architectural or historic interest

The above notice is addressed to you as owner or occupier of the building named, which has been included in one of the lists of buildings of special architectural or historic interest prepared under section 80 of the Planning Act (Northern Ireland) 2011 (“the Act”) by the Department of the Environment (“the Department”). The lists are compiled by the Department as a statutory duty; on the advice of a committee of people including architects and historians interested in historic buildings – the Historic Buildings Council.

This notice does not call for any action on your part unless you propose at any time to demolish the building or to do any works (either to the exterior or to the interior) which would affect its character. In that event you will need to seek “listed building consent”, that is to say, the consent of the council to the work you wish to do. Certain buildings are exempt from this requirement, notably ecclesiastical buildings in use for the time being for ecclesiastical purposes.

You should however note that it is an offence under section 85(1) of the Act to carry out any of those works without obtaining listed building consent. It is also an offence under section 85(5) to fail to comply with any condition attached to a listed building consent. A conviction for an offence could result in a fine, imprisonment or both.

Where works which are urgently necessary in the interests of safety or of health or for the preservation of the buildings are carried out without consent it is a defence to prove that—

- (a) it was not practicable to secure safety or health or the preservation of the building by works of repair or works for affording temporary support or shelter;
- (b) the works carried out were limited to the minimum measures immediately necessary; and
- (c) notice in writing justifying in detail the carrying out of works was given to the council as soon as reasonably practicable (section 85(7) of the Act).

Your attention is drawn to section 80(7) of the Act which provides that objects or structures described in that section within the curtilage of a listed building are entitled to the same protection as the building.

There is no right of appeal as such against the listing of a building but if the council should refuse consent for the carrying out of any proposed works, or grant it subject to condition, section 96 of the Act provides a right of appeal to the Planning Appeals Commission. You are not precluded at any time from writing to the Department claiming that the building should cease to be listed on the ground that it is not in fact of special architectural or historic interest; and any such claim, with the evidence supporting it, will be carefully considered.

If at any time you propose to take any action which may affect the character of your building, you should refer to the provisions of Chapter 1 Part 4 of the Act and the Planning (Listed Buildings) Regulations (Northern Ireland) 2015. Further details can be obtained from your council

NOTICE THAT A BUILDING HAS CEASED TO BE LISTED

IMPORTANT – This communication affects YOUR PROPERTY

Planning Act (Northern Ireland) 2011
Buildings of special architectural or historic interest

To:

NOTICE IS HEREBY GIVEN that the building known as..... situated in..... has, by an amendment made by the Department of the Environment under section 80 of the Planning Act (Northern Ireland) 2011 on been excluded from the list of buildings of special architectural or historic interest in that area compiled by the Department on

Dated

.....
Authorised Officer

NOTE

The building referred to in the above notice has been excluded from the list because*

*insert reason for exclusion

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations made under the Planning (Northern Ireland) Act 2011 (“the 2011 Act”) up-date and replace the Planning (Listed Buildings) Regulations (Northern Ireland) 1992 (“the 1992 Regulations”) to take account of that Act.

Regulation 2 sets out how an application for listed building consent must be made and the information which an applicant must provide.

Regulation 3 sets out how an application for approval of the council [or, as the case may be, the Department] required by a condition imposed on the grant of listed building consent must be made and the information which an applicant must provide.

Regulation 4 deals with design and access statements.

Regulation 5 provides for notification to owners under section 42 of the Act and also for related certificates that such notification has or cannot be carried out.

Regulation 6(1) specifies consultation requirements in relation to applications for listed building consent and requires councils to take account of responses received. Regulation 6(2) specifies the period of time within which the Department should respond to a consultation under regulation 6(1).

Regulation 7(1)(a) and (b) requires councils to publish notice of an application for listed building consent in a local newspaper and, where the council maintain one, on their website.

Regulation 7(1)(c) prevents councils from determining an application for listed building consent before the end of 14 days beginning with the date notice of the application was first published in a local newspaper, or 14 days from the date of publication on the council website (where the council maintain one), whichever is the later date.

Regulation 8(1) requires councils, in determining an application for listed building consent, to take account of responses received within 14 days from the date on which the notice is first published in a newspaper, or 14 days from the date of publication on the council website (where the council maintain one), whichever is the later date.

Regulation 8(2) requires councils, in determining an application for listed building consent, to take account of any representation made by the owner of the building (where the applicant is not the owner) and (where the owner makes a representation) to notify them of their decision.

Regulation 9(1) specifies the period of time within which the council should determine applications.

Regulation 9(2) specifies the period of time within which councils should determine applications for approval required by a condition imposed on the grant of listed building consent.

Regulation 9(3) requires councils [or, as the case may be, the Department] to give reasons where they refuse an application:

- for listed building consent, or grant consent subject to conditions;
- for approval required by a condition imposed on a grant of listed building consent or grant approval subject to conditions.

Regulation 10 deals with applications to councils under section 95 (consent to execute works without compliance with conditions previously attached) of the 2011 Act.

Regulation 11 deals with applications to the Department under section 95 of the 2011 Act.

Regulation 12 sets out the procedure for claims for compensation for revocation or modification of a consent.

Regulation 13 provides for the use of electronic communication in relation to submission of applications and claims for compensation.

Regulation 14 deals with advertisement of unopposed orders revoking or modifying a consent.

Regulation 15 with Schedule 2 sets out the form of notices to be served on owners or occupiers of buildings that have become, or ceased to be listed.

Regulation 16 applies the regulations to interested councils (defined in section 107(6) of the Act).

Regulation 17 revokes the 1992 Regulations.

A regulatory impact assessment has been prepared in relation to these Regulations. A copy may be obtained from the Department of the Environment, Causeway Exchange, 1-7 Bedford Street, Belfast, BT2 7EG or accessed at www.doeni.gov.uk.

The Explanatory Memorandum is available alongside these Regulations on the government's website www.legislation.gov.uk

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STATUTORY RULES OF NORTHERN IRELAND

2015 No. 108

PLANNING

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