

Business and Regulatory Impact Assessment

Title of Proposal

The National Bus Travel Concession Scheme for Young Persons (Scotland) Order 2021

Purpose and intended effect

- **Background**

The National Bus Travel Concession Scheme for Older and Disabled Persons (“the Older and Disabled Persons Scheme”) was introduced on 1 April 2006 by the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Order 2006 (SSI 2006/107) and the National Bus Travel Concession Scheme for Older and Disabled Persons (Eligible Persons and Eligible Services) (Scotland) Order 2006 (SSI 2006/117) (“the 2006 Orders”).

The National Concessionary Travel Scheme for Young People was introduced on a non-statutory basis in January 2007 and provides all 16-18 year olds and full-time volunteers up to age 25 who are resident in Scotland, with one third off the adult single bus fare, one third off most single and return rail journeys and 50% off weekly or monthly rail fares within Scotland. In addition, all eligible 16-18 year olds who are resident on Scottish islands receive vouchers for 2 free return ferry journeys to the mainland each year. The discounts are accessed via the Young Scot National Entitlement Card.

- **Objective**

The purpose of **The National Bus Travel Concession Scheme for Young Persons (Scotland) Order 2021** (“the 2021 Order”) is to provide for a National Bus Travel Concession Scheme for Young Persons (“the Young Persons Scheme”). This will extend the bus concession in the current National Concessionary Travel Scheme for Young People in two important ways. It will replace the one-third discount for 16-18 year olds with free bus travel on local and long distance scheduled bus services in Scotland. It will also extend eligibility for the bus elements of the National Concessionary Travel Scheme for Young People to people aged under 16. There are approximately 770,000 people aged between 5 and 18 (inclusive) resident in Scotland who will be eligible for free bus travel. Children under five are already eligible for free bus travel as a widespread practice across the bus industry.

Further, the Order will extend the Older and Disabled Persons Scheme provisions on companions to disabled children aged under 5 who would have been eligible under current provisions had they been aged 5 or over.

The Order will enable the Older and Disabled Persons Scheme to continue into 2021/22 by setting out the reimbursement terms for bus operators carrying concessionary passengers under this scheme. The rate of reimbursement will be 55.9% in 2021/22 and total payments will be capped at £226.1 million. Both these are the same as for 2021/22 given the difficulty forecasting what will happen in 2021/22 due to the COVID-19 pandemic. The cap in particular is unchanged, although it is probable that the pandemic will have a continued downward impact on claims in practice.

The Order also makes minor technical changes to the Older and Disabled Persons Scheme to reflect current practice and terminology regarding visual impairment, to the definition of Northern England services (which the scheme covers) and to the period allowed for operators to submit claims for reimbursement after the end of the financial year to which they relate.

Rationale for Government intervention

Older and Disabled Persons Scheme

The Older and Disabled Persons Scheme provides an entitlement to free bus travel on local and long distance scheduled bus services throughout Scotland (and a few cross border services crossing into Northern England) for people aged 60 and over or who meet certain disability related criteria. By enabling people to more easily access services and leisure facilities and interact with others, card holders tell us it delivers social and health benefits through reduced social isolation, greater independence and improved physical and mental wellbeing from increased activity.

In line with Scheme objectives operators are reimbursed for the costs of carrying concessionary passengers so as to leave them no better and no worse off through their participation in the Scheme. The reimbursement rates to ensure this are informed by an economic model and negotiation with the main industry trade body, the Confederation of Passenger Transport (CPT), on key assumptions on fares growth and future journey numbers.

The Young Persons Scheme

The overall policy aim of the proposed new Young Persons Scheme is to encourage Scotland's younger generations to use public transport with a view to embedding that behaviour from a young age, to tackle the climate emergency and to improve air quality in towns and cities by reducing the number of car journeys. In addition to the core transport and environmental aims, potential further benefits of the scheme are the promotion of social inclusion (by improving access to education, healthcare, training and employment etc.) and reduction in child poverty.

By extending free bus travel to all Scottish residents aged under 19, the Scottish Government is seeking to encourage families to use cars less for the school run and transport to leisure activities, instead using public

transport. Mode shift and the overall reduction of car use is central to tackling the climate emergency. Simply put, reducing the cost of bus travel for families will make taking the bus more attractive.

The Young Persons Scheme may also support low income families by reducing inequalities of opportunity for children living in poverty and reducing pressures on household budgets; to provide better access to education and leisure facilities and to increase young peoples' independence.

Children under five are generally eligible for free bus travel as a widespread practice across the bus industry. In order to ensure that all under 19s will be able to travel for free, this policy change will create a statutory obligation for bus operators to provide free travel to all young people aged between 5 and 18 who are currently required to pay a fare. The Scottish Ministers will compensate bus operators for any journeys provided under this Scheme.

Uptake of the National Concessionary Travel Scheme for Young People has historically been low, mainly due to the relatively small discount offered on bus travel, which is often bettered by bus operators' own offers, such as season tickets. The changes proposed are designed to improve the travel offer to young people in order to make bus travel a more attractive option.

The impact of the scheme on patronage and modal shift is uncertain and will be influenced by Covid-19. At this stage, based on experience elsewhere, we are estimating there will be around 10% more bus journeys made by this age group as a result of the Young Persons Scheme.

This aim is aligned with the Scottish Government's National Transport Strategy for the next 20 years, published in February 2020. This seeks to reduce inequalities and advance equality of opportunity and outcome, take climate action to make travel choices that minimise the long-term impacts on our climate, develop a transport system that will help deliver sustainable and inclusive economic growth and which will be safe and enable a healthy, active and fit nation. The Climate Change Plan Update has also identified the need to reduce private car vehicle miles travelled by 20 percent.

Reducing household costs has been identified in the Scottish Government's Tackling Child Poverty Delivery Plan as one of the three key drivers of child poverty. Free access to transport may play an important role in this, as otherwise money spent to meet travel needs would reduce the money available for other essentials, such as food, heating and clothing. People in lower income households are more likely to take the bus, with 44% of people with an income of less than £10,000 per annum travelling by bus once a week or more compared to 16% of those with an income over £40,000.

Through the Scottish Government National Performance Framework, free bus travel for young people aged under 19 contributes to the National Outcomes: "We tackle poverty by sharing opportunities, wealth and power

more equally”, “We value, enjoy, protect and enhance our environment”, “We grow up loved, safe and respected so that we realise our full potential” and “We live in communities that are inclusive, empowered, resilient and safe.”

Companion Cards for Disabled Under 5s

A companion card (also known as a “+1 card”) can be issued to persons of fare paying age (age 5 and over) who are in receipt of the higher or middle rate of the care component of Disability Living Allowance (DLA), daily living component of Personal Independence Payment (PIP), Attendance Allowance or are registered as blind. It allows a companion to travel for free with the cardholder.

Because children aged under 5 generally travel for free on buses in Scotland, no provision was made to include them within the category of eligible persons when the Older and Disabled Persons Scheme was introduced. However, this also meant that children aged under 5 would not qualify for a companion card even if they were in receipt of the appropriate level of DLA or registered as blind. This meant that their companions would not benefit from free travel.

Accordingly, the Scottish Government is seeking to correct this anomaly in the Older and Disabled Persons Scheme by ensuring eligibility for a companion card for disabled children aged under 5 who meet the same criteria as currently applied for children aged 5 and over.

Child Disability Payment (CDP) will replace children and young people’s Disability Living Allowance (DLA) across Scotland in a rolling programme over the next year. Existing DLA awards will remain in use for some time and new applications will be to CDP for children and young people up to 18 years old. Concessionary travel eligibility (including for companion cards) will accordingly be extended to CDP through amending regulations expected to enter Parliament in 2021.

Consultation

- **Within Government**

Consultation has been undertaken with colleagues in Transport Scotland who administer the scheme (and who are in regular contact with bus operators) and with colleagues across Scottish Government with expertise in protecting the safety and wellbeing of children.

Transport Analytical Services have supported negotiations with the bus industry, updated the economic model and provided forecast information to ensure these have been reflected in the agreement reached in respect of reimbursement terms for both the Older and Disabled Persons Scheme and

the Young Persons Scheme. Finance colleagues are consulted about relevant budgeting for resources and cost of both Schemes.

- **Other stakeholders**

The Improvement Service (IS) is the national improvement organisation for Local Government in Scotland. Its members include COSLA, Solace and Scotland's 32 local authorities, and it was established in 2005 to deliver improvement support that would help Councils to provide effective community leadership, strong local governance and deliver high quality, efficient local services.

The IS is the accountable body for the National Entitlement Card Scheme. The National Entitlement Card Programme Office (NECPO) – as part of Dundee City Council – supports the Scheme's management and delivery through a Service Level Agreement between the IS and Dundee City Council.

NECPO's responsibilities include procuring core components necessary for the Scheme's delivery, including a national card management system, card production and fulfilment services, and smartcard supplies. The IS is responsible for the management and operation of an online card application portal, getyournec.scot.

Early and regular engagement with NECPO and IS has been undertaken and is ongoing.

Local Authorities and in some cases regional transport partnerships are responsible for the application and cardholder management process for the NEC, and also operate and tender school bus transport and socially necessary services. In addition to local authority responses to the public consultation, a working group has been established to engage local transport authorities.

- **Children's Organisations**

Engagement with internal and external stakeholders who have expertise in children's issues was undertaken between October and December 2020. This includes engagement with young people themselves through a focus group session with 12-19 year olds, which included young volunteers from the Young Scot Hive programme and Members of the Scottish Youth Parliament. Engagement was also undertaken through the Children's Parliament, with a focus group of 8-12 year olds and a semi-structured interview with a 7 year old and their family.

Scottish Government officials within child protection, anti-poverty, and learning directorates highlighted issues to be considered further within impact assessments. At the launch of the consultation, a number of young people's organisations were informed of the consultation and were offered

conversations to share more information. Responses from a number of children organisations were received through the public consultation.

Additional conversations were held with Barnardo's, Action for Children, Who Cares Scotland, and two local authorities who had undertaken similar free bus pilot programmes (Falkirk Look After Pass and Renfrewshire Through Care programmes). The impacts on children's rights and wellbeing, informed with findings from this stakeholder engagement, is outlined in further details in this policy's Child Rights and Wellbeing Impact Assessment.

- **Business**

Negotiations have taken place with the Confederation of Passenger Transport (CPT), which represents about 80% of the bus industry in Scotland in terms of numbers of journeys, to agree the reimbursement rates for the Older and Disabled Persons Scheme and the Young Persons Scheme.

It is our intention that all eligible bus operators in Scotland will participate in both Schemes and that they are informed about the proposed reimbursement terms for 2021/22.

- **Public Consultation**

A public consultation on the proposals to extend eligibility to all under 19s was published on 26 October 2020 and completed on 7 December 2020. The consultation attracted over 3,000 responses.

The great majority of respondents to this consultation favoured the proposed extension of eligibility, but there were some concerns. A number of bus operators stated that they would have to be appropriately compensated for joining the Young Persons Scheme, which should not place an increased financial burden on operators, which could lead to fare increases, frequency reductions, service removal or a combination of these measures.

Further, some local authorities pointed out that unless the Older and Disabled Persons Scheme and the new Young Persons Scheme were appropriately funded, it might lead to increased tender prices for local authorities running necessary services if on-bus revenue reduces as a result of too low a level of reimbursement. There was also potential for increased administrative demands on public service staff and transport operators helping to administer the scheme.

These considerations have been taken into account in determining the reimbursement rates for both the Older and Disabled Persons Scheme and the new Young Persons Scheme, which are discussed in more detail below.

Concerns were also raised by Islands residents and their representatives about potential impacts of the proposed Young Persons Scheme on non-

mainland communities, in particular in relation to the provision of ferry travel to and from the mainland bus network. Although the new Scheme is for bus travel only, there are concerns particular to Island communities which will need to be considered.

Recognising the unique needs of non-mainland communities, an Island Communities Impact Assessment (ICIA), in line with the Islands (Scotland) Act 2018, will be carried out prior to the Young Persons Scheme coming into force to ensure that the needs of island communities are considered when developing and implementing the scheme and to determine if mitigating actions will need to be put in place.

A public consultation on the Older and Disabled Persons Scheme was held between 25 August to 17 November 2017. The consultation proposed to extend eligibility for a companion card for disabled children aged under 5 who are in receipt of the appropriate level of DLA or registered as blind. Of 2,600 responses to this question, over 80% were in favour of extending the Scheme in this way.

Options

Option 1 – Do not provide free bus travel for all persons resident in Scotland aged under 19, but proceed with provision of companion cards for disabled under 5's and set the reimbursement rate for the Older and Disabled Persons Scheme in 2021-22

Benefit:

Eligibility will be ensured for a companion card for disabled children aged under 5 who are in receipt of the appropriate level of DLA or registered as blind.

The reimbursement rate for the Older and Disabled Persons scheme will be set for the financial year 2021-22, ensuring that the Scheme continues for a further year.

Cost:

Very small increase in costs (just over £0.5 million for companion cards for disabled under 5s) for the National Bus Travel Concession Scheme for Older and Disabled Persons (currently capped at £226.1 million) or for the National Concessionary Travel Scheme for Young People (which currently costs around £2.4 million per annum).

Around 770,000 young people will not benefit from free bus travel throughout Scotland. This will make it more difficult to encourage a greater shift to public transport in this age group as part of moves toward a more sustainable transport system. This will also mean that they will not benefit from improved access to education, employment and leisure facilities.

Option 2 – Bring into force the National Bus Travel Concession Scheme for Young Persons (Scotland) Order 2021, creating a National Bus Travel Concession Scheme for Young Persons to provide free bus travel for all persons resident in Scotland aged under 19.

Benefit:

Will extend free bus travel to around 770,000 young people. This will encourage a greater shift to public transport as part of moves toward a more sustainable transport system and offer these young people better access to education and leisure facilities.

The Scheme is intended to leave bus operators no better and no worse off as a result of their participation in it.

Cost:

Reimbursement rates for the Older and Disabled Persons Scheme have been set using an agreed economic model since 2013-14. The model aims to deliver as far as possible average reimbursement that meets the statutory aim that bus operators should be no better or worse off as a result of the scheme. We have agreed with CPT Scotland that in 2021/22 the reimbursement rate for the Older and Disabled Persons Scheme will remain at 55.9% of the adult single fare. The budget cap of £226.1 million, will also be the same as for 2020-21.

A budget cap is not welcomed by the bus industry. However, for the Older and Disabled Persons Scheme, it is set at a level which is believed to be consistent with the aim to leave the bus operators no better and no worse off as a result of carrying concessionary passengers.

Due to the impact of Covid-19 on bus passenger numbers over the past year and the ongoing uncertainty over the foreseeable future it has not been possible to undertake the usual analysis and forecasting that underpins the annual revision of the reimbursement rate and the cap. The Scottish Government therefore continues to provide additional support for the industry, which, taken together with spend on the Scheme itself, means that the budget for the Older and Disabled Persons Scheme will have been fully utilised in 2020-21.

The reimbursement rate for the new Young Persons Scheme will be 60.3% of the adult single fare. The principles underlying the model used for the Older and Disabled Persons Scheme remain valid but it is difficult to estimate potential journey numbers for the new Scheme, given the limited available data on which to draw. Accordingly, reimbursement terms have been estimated aiming as far as possible to leave operators no better or worse off on the basis of operator data on pre Covid-19 travel at child fares, using Scottish Household Survey data to estimate the travel patterns of 16-18 year olds (who generally travel on adult fares) and studies into the impact on journey numbers of schemes elsewhere. The terms are based on adult single fares for practical administrative reasons but take account of the fact that many journeys made by this age group, especially by 5-15 year olds, would have been made at commercially discounted child rates.

However, we recognise there are significant uncertainties, exacerbated by the impacts of the ongoing pandemic, over take up and potential impacts on cost for operators. There are also variations between operators, for example in the commercial child discounts offered prior to the scheme, which may mean they are affected differently by the use of a single average rate. It will be important to monitor the scheme closely as it comes into operation in order to avoid significant adverse financial impacts, generally or for individual operators or groups of operators. This work with bus operators will also help to improve reimbursement modelling in future years and identify any problems for individual operators that might arise and will need to be addressed.

The majority of young people are either educationally or economically active, and so more likely than the older and disabled group to travel at peak times. It is possible that an increase in patronage at these times could increase the PVR (Peak Vehicle Resource) requirements of bus operators, leading to increases in both driver and vehicle resource. As much of the incremental business costs of an operator is driven by PVR, any increase in this will result in increased operational costs and potentially increased overhead cost (bigger depots, increased support roles, increased engineering roles, increased insurance costs).

Additionally young persons are more likely to travel in the evenings than cardholders under the Older and Disabled Persons Scheme, where service provision is lower and indeed in many areas is either not operated or operated either by larger operators or with funding support from Local Authorities. Increased demand at this time may lead to disproportionately high additional operating costs to operators.

Given the impacts of the Covid-19 pandemic on bus usage, this is unlikely to be an issue initially, due to the current depressed level of bus patronage generally. However, it will need to be kept under active review and mitigations put in place if necessary.

A budget cap has not been set for the new Young Persons Scheme in 2021/22. This reflects considerable uncertainties over likely usage which make it difficult to provide an accurate estimate, and the risk that too low a cap, in conjunction with the potential continuing impacts of the Covid-19 pandemic on patronage, could threaten the viability of bus services in the first year of the scheme.

Transport Scotland estimate there will be up to 67.6 million journeys under the Young Persons Scheme at an estimated total annual reimbursement cost of up to £89.4 million for a full year of operation. In practice, the scheme is planned to come into operation during the course of 2021-22 and actual costs in the first year will depend on how soon and quickly this happens.

NECPO estimate one-off set up costs for Young Persons Scheme of up to £2 million in 2021-2, a further £1.5 million for additional NEC cards and recurring annual costs of around £800,000.

Transport Scotland estimate that around £1 million will be required for a marketing and educational campaign for the new scheme, including bus driver awareness training, information on how to use the bus service responsibly, branding, materials, promotion and advertising. In addition it will cost an estimated £0.5 million to reconfigure the electronic ticket machines used by buses.

Local Authorities have advised that the proposals may have the potential to increase costs and burdens. The level of re-imburement is key, both initially and in coming years. If the initial level of re-imburement, or any subsequently agreed reduced level, is too low, bus operators may seek additional funding from Local Authorities for their local bus service contracts as on bus revenue will drop due to the reimbursement rate being reduced. This would cause an increased cost for the local authority if they considered the journey was socially necessary or a burden in that they could not afford to replace the journey. In addition, this could lead to an increase in fares which may then result in a barrier for fare paying passengers.

In addition, Local Authorities may face increased costs to administer the anticipated increase in NEC applications (by way of example, Aberdeenshire Council currently have 1.5 full time equivalent staff and Falkirk Council have 1 full time equivalent dedicated to concessionary travel work). While the majority of Local Authorities process bulk applications for the Young Scot-branded NEC at the beginning of secondary school, this is not universal, and does not currently require a parent / legal guardian approval element. This may not be the best approach going forwards and so this will need to be reviewed. In addition, a process will be developed to enable parents or legal guardians of existing Young Scot-branded NEC holders under the age of 16 to remove the travel product from their child's NEC. This process will be managed by the Improvement Service for Local Authorities who have signed up for an online application system, and managed by individual Local Authorities who have not signed up for online.

Local Authorities do not process NEC applications at primary school age, however this is likely to emerge as a new requirement to cope with the long-term increased demand. TS is working with delivery partners including Local Authorities, NECPO, and the Improvement Service to consider how the increased volume of applications can be managed.

Extending the coverage under the Older and Disabled Persons Scheme to provide companion cards for eligible disabled children under 5 is estimated to add around £520,000 per annum to the costs of that Scheme for around 4,000 additional bus pass holders.

Sectors and groups affected

The sectors most affected by the changes in the 2021 Order are the bus industry and bus passengers (both concessionary and fare paying).

In addition, a potential increase in bus travel and associated reduction in car use as a result of the Young Persons Scheme could lead to reduced congestion on the roads and improved air quality, to the benefit of all road users.

Scottish Firms Impact Test

There are around 180 bus operators in Scotland who are currently eligible to participate in both Schemes. Transport Scotland has had regular contact with participating bus operators since the outset of the Older and Disabled Persons Scheme in 2006 and consideration of potential impacts on the bus industry is a key part of any discussions.

Competition Assessment

The Scottish Government does not consider that the proposed changes in the 2021 Order will have any impact on competition. It is not considered likely that the proposals will directly or indirectly limit the range of suppliers, limit the ability of suppliers to compete, or reduce suppliers' incentives to compete vigorously. Furthermore, given the local nature of services being supplied by the bus industry, there will be no impact on competition within the UK or elsewhere.

Test run of business forms

Transport Scotland are working with NECPO, the Improvement Service, Young Scot, Local Authorities and Strathclyde Partnership for Transport (SPT) to identify requirements for the NEC application process. It is most likely the existing application form will be adapted to include a parental approval element for the travel product for young people under 16. The existing application form and process has been rigorously tested and is used on a very regular basis for the existing concessionary schemes. Customer Journey mapping and technical process mapping will help to test out any required amendments to the application form.

Legal Aid Impact Test

Legal Aid is not impacted by this Order.

Enforcement, sanctions and monitoring

Transport Scotland is responsible for the administration of both Schemes and compliance with the requirements as detailed in the Order.

Implementation and delivery plan

The Order is subject to affirmative resolution procedure and so will require to be approved by the Scottish Parliament. The 2021 Order will include all people resident in Scotland aged between 5 and 18 as eligible persons for the scheme.

The provisions of the Order will come into force on the 1 April 2021, meaning that Ministers will be able to formally admit operators to the scheme and put in place the

necessary administrative arrangements to begin running the scheme from this date. It is not a date by which the scheme must be operational.

- **Post-implementation review**

The Scottish Government will monitor evidence from both schemes for determining their effectiveness in meeting the stated aims and also for informing the reimbursement rate for each Scheme in coming years.

Discussions will take place with CPT and key stakeholders to seek to ensure any future reimbursement rate can be agreed with the industry representatives to sustain the benefits of both Schemes.

We intend to review the Young Persons Scheme following the first full year of operation.

Summary and recommendation

In summary, the preferred option (Option 2) seeks to bring into force the National Bus Travel Concession Scheme for Young Persons to provide free bus travel for all persons resident in Scotland aged between 5 and 18.

We wish to introduce an Order to bring the provisions of the Young Persons Scheme into effect on 1 April 2021. This is not a date by when the Scheme will be operationally up and running, rather it marks the creation of the scheme and allows Ministers to formally admit operators to the scheme and put in place the necessary administrative arrangements. This Order will also set the reimbursement rate for the Older and Disabled Persons Scheme for 2021-22 and extend eligibility to companion cards under the Older and Disabled Persons Scheme for those children aged under 5 who would become eligible under current provisions on reaching age 5.

- **Summary costs and benefits table**

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
Option 1	Do not provide free bus travel for all persons resident in Scotland aged under 19, but proceed with provision of companion cards for disabled under 5's and set the reimbursement rate for the Older and Disabled Persons Scheme in 2021-22	Very small increase in costs (just over £0.5 million for companion cards for disabled under 5s) for National Bus Travel Concession Scheme for Older and Disabled Persons. Setting a reimbursement rate for 2021-22 ensures the National Bus Travel Concession Scheme for Older and Disabled Persons continues for a further year.

		<p>Around 770,000 young people will not benefit from free bus travel throughout Scotland.</p>
Option 2	<p>Provide companion cards for disabled under 5's and set the reimbursement rate for the Older and Disabled Persons Scheme in 2021-22.</p> <p>Bring into force the National Bus Travel Concession Scheme for Young Persons to provide free bus travel for all persons resident in Scotland aged under 19.</p>	<p>Very small increase in costs (just over £0.5 million for companion cards for disabled under 5s) for National Bus Travel Concession Scheme for Older and Disabled Persons.</p> <p>Annual reimbursement cost of the new Young Persons Scheme estimated at up to £89.4 million per annum. Up to £3.5 million one off set up costs and £800,000 annual administrative costs.</p> <p>Possible increase in bus patronage once Covid-19 over, with corresponding increase in driver and vehicle resource.</p> <p>Potential additional Local Authority resource required to administer increase in applications.</p> <p>Reimbursement rate consistent with scheme objectives to leave bus operators "no-better and no-worse off" through their participation in the scheme.</p>

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed: Michael Matheson

Date: 19th January 2021

**Michael Matheson
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