



Town and Country Planning Act 1990

1990 CHAPTER 8

PART VII

ENFORCEMENT

Enforcement notices

[^{F1}172 Issue of enforcement notice.

- (1) The local planning authority may issue a notice (in this Act referred to as an “enforcement notice”) where it appears to them—
 - (a) that there has been a breach of planning control; and
 - (b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.
- (2) A copy of an enforcement notice shall be served—
 - (a) on the owner and on the occupier of the land to which it relates; and
 - (b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.
- (3) The service of the notice shall take place—
 - (a) not more than twenty-eight days after its date of issue; and
 - (b) not less than twenty-eight days before the date specified in it as the date on which it is to take effect.]

Textual Amendments

- F1** Ss. 172-173A substituted for ss. 172, 173 (25.11.1991 for certain purposes and otherwise 2.1.1992) by 1991 c. 34, s. 5(1) (with s. 84(5)); S.I. 1991/2728, art.2; S.I. 1991/2905, art.3 (subject to art. 5)

Modifications etc. (not altering text)

- C1** S. 172: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3

Status: Point in time view as at 25/11/1991.

Changes to legislation: Town and Country Planning Act 1990, Cross Heading: Enforcement notices is up to date with all changes known to be in force on or before 19 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

C2 S. 172: functions of local authority not to be responsibility of an executive of the authority (E.)
(16.11.2000) by virtue of [S.I. 2000/2853](#), [reg. 2\(1\)](#), [Sch. 1](#)

173 ^{F2}Contents and effect of notice.

- (1) An enforcement notice shall state—
 - (a) the matters which appear to the local planning authority to constitute the breach of planning control; and
 - (b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.
- (2) A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.
- (3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.
- (4) Those purposes are—
 - (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or
 - (b) remedying any injury to amenity which has been caused by the breach.
- (5) An enforcement notice may, for example, require—
 - (a) the alteration or removal of any buildings or works;
 - (b) the carrying out of any building or other operations;
 - (c) any activity on the land not to be carried on except to the extent specified in the notice; or
 - (d) the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.
- (6) Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this section referred to as a “replacement building”) which, subject to subsection (7), is as similar as possible to the demolished building.
- (7) A replacement building—
 - (a) must comply with any requirement imposed by any enactment applicable to the construction of buildings;
 - (b) may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;
 - (c) must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (a) and (b)).
- (8) An enforcement notice shall specify the date on which it is to take effect and, subject to sections 175(4) and 289(4A), shall take effect on that date.
- (9) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods

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apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.

(10) An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 174.

(11) Where—

(a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and

(b) all the requirements of the notice have been complied with,

then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.

(12) Where—

(a) an enforcement notice requires the construction of a replacement building; and

(b) all the requirements of the notice with respect to that construction have been complied with,

planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.

Textual Amendments

F2 Ss. 172-173A substituted for ss. 172, 173 (25.11.1991 for certain purposes and otherwise 2.1.1992) by 1991 c. 34, s. 5(1) (with s. 84(5)); S.I. 1991/2728, art.2; S.I. 1991/2905, art.3 (subject to art. 5)

Modifications etc. (not altering text)

C3 S. 173: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3

C4 S. 173(10) applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, Sch.

173A ^{F3}Variation and withdrawal of enforcement notices.

(1) The local planning authority may—

(a) withdraw an enforcement notice issued by them; or

(b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).

(2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.

(3) The local planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.

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- (4) The withdrawal of an enforcement notice does not affect the power of the local planning authority to issue a further enforcement notice.

Textual Amendments

F3 Ss. 172-173A substituted for ss. 172, 173 (25.11.1991 for certain purposes and otherwise 2.1.1992) by 1991 c. 34, s. 5(1) (with s. 84(5)); S.I. 1991/2728, art.2; S.I. 1991/2905, art. 3 (subject to art. 5)

Modifications etc. (not altering text)

C5 S. 173A applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, Sch.
S. 173A: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3

174 Appeal against enforcement notice.

- (1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.
- (2) An appeal may be brought on any of the following grounds—
- (a) that planning permission ought to be granted for the development to which the notice relates or, as the case may be, that a condition or limitation alleged in the enforcement notice not to have been complied with ought to be discharged;
 - (b) that the matters alleged in the notice do not constitute a breach of planning control;
 - (c) that the breach of planning control alleged in the notice has not taken place;
 - (d) in the case of a notice to which section 172(4) applies, that the period of four years from the date of the breach of planning control to which the notice relates had elapsed at the date when the notice was issued;
 - (e) in the case of a notice not falling within paragraph (d), that the breach of planning control alleged by the notice occurred before the beginning of 1964;
 - (f) that copies of the enforcement notice were not served as required by section 172(6);
 - (g) that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control or to achieve a purpose specified in section 173(4);
 - (h) that the period specified in the notice as the period within which any step is to be taken falls short of what should reasonably be allowed.
- (3) An appeal under this section shall be made by notice in writing to the Secretary of State before the specified date.
- (4) A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing—
- (a) specifying the grounds on which he is appealing against the enforcement notice; and
 - (b) giving such further information as may be prescribed.
- (5) If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without

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considering any ground as to which the appellant has failed to give such information within that time.

- (6) In this section “relevant occupier” means a person who—
- (a) on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence in writing; and
 - (b) continues so to occupy the land when the appeal is brought.

Modifications etc. (not altering text)

C6 S. 174: power to apply conferred (*prosp.*) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), **ss. 25(1)(b)**, 41

175 Appeals: supplementary provisions.

- (1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without prejudice to the generality of this subsection, may—
 - (a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
 - (b) specify the matters to be included in such a statement;
 - (c) require the authority or the appellant to give such notice of such an appeal as may be prescribed;
 - (d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.
- (2) The notice to be prescribed under subsection (1)(c) shall be such notice as in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated.
- (3) Subject to section 176(4), the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (4) Where an appeal is brought under section 174 the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.
- (5) Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.
- (6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.
- [^{F4}(7) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under section 174 as if those proceedings were an inquiry held by the Secretary of State under section 250.]

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Textual Amendments

- F4** S. 175(7) inserted (*temp.*) by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 6, Sch. 4 paras. 1, 3

Modifications etc. (not altering text)

- C7** S. 175(1)–(4)(6): power to apply conferred (*prosp.*) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), [ss. 25\(1\)\(b\)](#), 41

176 General provisions relating to determination of appeals.

- (1) On the determination of an appeal under section 174, the Secretary of State shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the enforcement notice or for varying its terms.
- (2) On such an appeal if the Secretary of State is satisfied that to do so will not cause the appellant or the local planning authority injustice, he may—
 - (a) correct any informality, defect or error in the enforcement notice; or
 - (b) give directions for varying its terms.
- (3) The Secretary of State—
 - (a) may dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and
 - (b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a), (b), or (d) of section 175(1) within the prescribed period.
- (4) If the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section 175(3).
- (5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

Modifications etc. (not altering text)

- C8** [Ss. 176, 177](#): power to apply conferred (*prosp.*) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), [ss. 25\(1\)\(b\)](#), 41

177 Grant or modification of planning permission on appeals against enforcement notices.

- (1) On the determination of an appeal under section 174, the Secretary of State may—
 - (a) grant planning permission for the development to which the enforcement notice relates or for part of that development or for the development of part of the land to which the enforcement notice relates;
 - (b) discharge any condition or limitation subject to which planning permission was granted;

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- (c) determine any purpose for which the land may, in the circumstances obtaining at the time of the determination, be lawfully used having regard to any past use of it and to any planning permission relating to it.
- (2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.
- (3) Any planning permission granted by the Secretary of State under subsection (1) may—
 - (a) include permission to retain or complete any buildings or works on the land, or to do so without complying with some condition attached to a previous planning permission;
 - (b) be granted subject to such conditions as the Secretary of State thinks fit;and section 72(1) and (5) shall apply with any necessary modifications in relation to the grant of permission under subsection (1) as it applies to a grant of permission under section 70(1).
- (4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.
- (5) Where an appeal against an enforcement notice is brought under section 174, the appellant shall be deemed to have made an application for planning permission for the development to which the notice relates.
- (6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.
- (7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.
- (8) For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.

Modifications etc. (not altering text)

- C9** Ss. 176, 177: power to apply conferred (*prosp.*) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), ss. 25(1)(b), 41

178 Execution and cost of works required by enforcement notice.

- (1) If any steps which by virtue of section 173(2)(a) are required by an enforcement notice to be taken (other than the discontinuance of a use of land) have not been taken within the compliance period, the local planning authority may—
 - (a) enter the land and take those steps, and
 - (b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.
- (2) Where a copy of an enforcement notice has been served in respect of any breach of planning control (as defined in section 172(3))—
 - (a) any expenses incurred by the owner or occupier of any land for the purpose of complying with the notice, and

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- (b) any sums paid by the owner of any land under subsection (1) in respect of expenses incurred by the local planning authority in taking steps required by such a notice to be taken,
- shall be deemed to be incurred or paid for the use and at the request of the person by whom the breach of planning control was committed.
- (3) Regulations made under this Act may provide that—
- (a) section 276 of the ^{M1}Public Health Act 1936, (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);
 - (b) section 289 of that Act (power to require the occupier of any premises to permit works to be executed by the owner of the premises); and
 - (c) section 294 of that Act (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act),
- shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by an enforcement notice.
- (4) Regulations under subsection (3) applying section 289 of the Public Health Act 1936 may include adaptations and modifications for the purpose of giving the owner of land to which an enforcement notice relates the right, as against all other persons interested in the land, to comply with the requirements of the enforcement notice.
- (5) Regulations under subsection (3) may also provide for the charging on the land of any expenses recoverable by a local planning authority under subsection (1).
- (6) Where by virtue of this section any expenses are recoverable by a local planning authority, those expenses shall be recoverable as a simple contract debt in any court of competent jurisdiction.
- (7) In this section and in sections 179, 183 and 184 any reference to the compliance period, in relation to an enforcement notice, is a reference to the period specified in the notice for compliance with it or such extended period as the local planning authority may allow for compliance with it.

Modifications etc. (not altering text)

C10 Ss. 178(1)–(5)(7), 179–181, 183, 184, 187, 188: power to modify conferred (*prosp.*) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), **ss. 25(1)(c)**, 41

Marginal Citations

M1 1936 c. 49.

179 Penalties for non-compliance with enforcement notice.

- (1) Where—
- (a) a copy of an enforcement notice has been served on the person who at the time when the copy was served was the owner of the land to which the notice relates, and
 - (b) any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken within the compliance period,
- then, subject to the provisions of this section, that person shall be guilty of an offence.

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- (2) A person who is guilty of an offence under subsection (1) shall be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum, or
 - (b) on conviction on indictment, to a fine.
- (3) Where proceedings have been brought under subsection (1) against a person (“the original owner”) who has, at some time before the end of the compliance period, ceased to be the owner of the land, if he—
 - (a) duly lays information to that effect, and
 - (b) gives the prosecution not less than three clear days’ notice of his intention,he shall be entitled to have the person who then became the owner of the land (“the subsequent owner”) brought before the court in the proceedings.
- (4) Where in such proceedings—
 - (a) it has been proved that any steps required by the enforcement notice have not been taken within the compliance period, and
 - (b) the original owner proves that the failure to take those steps was attributable, in whole or in part, to the default of the subsequent ownerthen—
 - (i) the subsequent owner may be convicted of the offence; and
 - (ii) if the original owner also proves that he took all reasonable steps to secure compliance with the enforcement notice, he shall be acquitted of the offence.
- (5) If, after a person has been convicted under the previous provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the enforcement notice, he shall be guilty of a further offence and liable—
 - (a) on summary conviction to a fine not exceeding £200 for each day following his first conviction on which any of the requirements of the notice (other than the discontinuance of the use of land) remain unfulfilled; or
 - (b) on conviction on indictment, to a fine.
- (6) Where, by virtue of an enforcement notice—
 - (a) a use of land is required to be discontinued, or
 - (b) any conditions or limitations are required to be complied with in respect of a use of land or in respect of the carrying out of operations on it,then, if any person uses the land or causes or permits it to be used, or carries out those operations or causes or permits them to be carried out, in contravention of the notice, he shall be guilty of an offence.
- (7) A person who is guilty of an offence under subsection (6) shall be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum, or
 - (b) on conviction on indictment, to a fine.
- (8) Where a person is convicted under subsection (6) in respect of any use of land and the use is continued after the conviction he shall be guilty of a further offence and liable—
 - (a) on summary conviction, to a fine not exceeding £200 for each day on which the use is so continued, or
 - (b) on conviction on indictment, to a fine.

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Modifications etc. (not altering text)

C11 Ss. 178(1)–(5), (7), 179–181, 183, 184, 187, 188: power to modify conferred (*prosp.*) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), [ss. 25\(1\)\(c\)](#), 41

180 Effect of planning permission on enforcement notice.

- (1) If, after the service of a copy of an enforcement notice, planning permission is granted—
 - (a) for the retention on land of buildings or works, or
 - (b) for the continuance of a use of land, to which the enforcement notice relates, the enforcement notice shall cease to have effect in so far as it requires steps to be taken for the demolition or alteration of those buildings or works or, as the case may be, the discontinuance of that use.
- (2) If the planning permission granted as mentioned in subsection (1) is granted so as to permit the retention of buildings or works, or the continuance of a use of land, without complying with some condition subject to which a previous planning permission was granted, the enforcement notice shall cease to have effect in so far as it requires steps to be taken for complying with that condition.
- (3) The fact that an enforcement notice has wholly or partly ceased to have effect under subsection (1) or (2) shall not affect the liability of any person for an offence in respect of a previous failure to comply with the notice.

Modifications etc. (not altering text)

C12 Ss. 178(1)–(5), (7), 179–181, 183, 184, 187, 188: power to modify conferred (*prosp.*) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), [ss. 25\(1\)\(c\)](#), 41

181 Enforcement notice to have effect against subsequent development.

- (1) Compliance with an enforcement notice, whether in respect of—
 - (a) the completion, demolition or alteration of any buildings or works;
 - (b) the discontinuance of any use of land; or
 - (c) any other requirements contained in the notice,
 shall not discharge the notice.
- (2) Without prejudice to subsection (1), any provision of an enforcement notice requiring a use of land to be discontinued shall operate as a requirement that it shall be discontinued permanently, to the extent that it is in contravention of Part III; and accordingly the resumption of that use at any time after it has been discontinued in compliance with the enforcement notice shall to that extent be in contravention of the enforcement notice.
- (3) Without prejudice to subsection (1), if any development is carried out on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice, the notice shall, notwithstanding that its terms are not apt for the purpose, be deemed to apply in relation to the buildings or works as reinstated or restored as it applied in relation to the buildings or works

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before they were demolished or altered; and, subject to subsection (4), the provisions of section 178(1) and (2) shall apply accordingly.

- (4) Where, at any time after an enforcement notice takes effect—
- (a) any development is carried out on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with the notice; and
 - (b) the local planning authority propose, under section 178(1), to take any steps required by the enforcement notice for the demolition or alteration of the buildings or works in consequence of the reinstatement or restoration,
- the local planning authority shall, not less than 28 days before taking any such steps, serve on the owner and occupier of the land a notice of their intention to do so.
- (5) Where without planning permission a person carries out any development on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice—
- (a) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, and
 - (b) no person shall be liable under any of the provisions of section 179(1) to (5) for failure to take any steps required to be taken by an enforcement notice by way of demolition or alteration of what has been so reinstated or restored.

Modifications etc. (not altering text)

C13 Ss. 178(1)–(5), (7), 179–181, 183, 184, 187, 188: power to modify conferred (*prosp.*) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), [ss. 25\(1\)\(c\), 41](#)

182 Enforcement by the Secretary of State.

- (1) If it appears to the Secretary of State to be expedient that an enforcement notice should be issued in respect of any land, he may issue such a notice.
- (2) The Secretary of State shall not issue such a notice without consulting the local planning authority.
- (3) An enforcement notice issued by the Secretary of State shall have the same effect as a notice issued by the local planning authority.
- (4) In relation to an enforcement notice issued by the Secretary of State, sections 178 and 181 shall apply as if for any reference in those sections to the local planning authority there were substituted a reference to the Secretary of State.

Modifications etc. (not altering text)

C14 S. 182: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762, art. 3](#)

Status:

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