
STATUTORY INSTRUMENTS

1995 No. 912

**The Local Authorities Etc. (Allowances)
(Scotland) Regulations 1995**

**PART I
GENERAL**

Citation and commencement

1. These Regulations may be cited as the Local Authorities Etc. (Allowances) (Scotland) Regulations 1995 and shall come into force on 6th April 1995.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the 1973 Act” means the Local Government (Scotland) Act 1973;

“the 1989 Act” means the Local Government and Housing Act 1989;

“the 1994 Act” means the Local Government Etc. (Scotland) Act 1994⁽¹⁾;

“the 1991 Regulations” means the Local Authorities Etc. (Allowances) (Scotland) Regulations 1991⁽²⁾;

“approved duty” has the same meaning as in section 49(2) of the 1973 Act⁽³⁾;

“committee or sub-committee”, in relation to a local authority, includes a joint committee of the local authority and one or more other local authorities or, as the case may be, any sub-committee of such a joint committee;

“constituent council” in relation to a joint board, means any local authority which appoints (or which will be entitled after 1st April 1996 to appoint) members to that board;

“councillor” means, in relation to a local authority, an elected member of that authority and, in relation to a joint board, any member of that board who is treated as if he were a councillor by virtue of regulation 14;

“joint board” means a body corporate, constituted for the purposes of a combination of local authorities (within the meaning of these Regulations) under the 1973 Act or by or under any other enactment, consisting exclusively of persons appointed by those local authorities;

“local authority” means—

(a) in the period prior to 1st April 1996—

(i) a council in respect of which an ordinary election of councillors is to take place on 6th April 1995 in terms of section 5(2) of the 1994 Act; or

⁽¹⁾ 1994 c. 39.

⁽²⁾ S.I. 1991/397, amended by S.I. 1992/505, 1993/644, 1994/630 and 1995/701.

⁽³⁾ Section 49(2) was amended by the Local Government and Planning (Scotland) Act 1982, section 60(2) and Schedule 4, Part I.

- (ii) an islands council; and
- (b) in the period from and including 1st April 1996, a council constituted under section 2 of the 1994 Act;

“political group”, in relation to a local authority, means a political group constituted in accordance with Schedule 1, and “leader” and “deputy leader” of a political group shall be construed accordingly;

“standard maximum” shall be construed in accordance with regulation 12;

“year” means—

- (a) in respect of a local authority (other than an islands council), the period from 6th April 1995 to 31st March 1996, and thereafter any period of 12 months beginning with 1st April;
- (b) in respect of an islands council, the period from the date on which a scheme made by that council under regulation 4(1) comes into effect to 31st March 1996; and
- (c) in respect of a joint board, the period from the date on which a scheme made by that joint board under regulation 15 comes into effect to 31st March first occurring after such date, and thereafter any period of 12 months beginning with 1st April.

(2) For the purposes of these Regulations, members of a local authority are to be treated as divided into different political groups when there is at least one political group in existence constituted in accordance with Schedule 1.

(3) For the purposes of these Regulations, the term of office of a councillor who is a member of a local authority shall begin on the date on which he makes a declaration of acceptance of that office under section 33A of the 1973 Act(4).

(4) Unless the context otherwise requires, any reference in these Regulations—

- (a) to a numbered Part or a numbered regulation or a numbered Schedule is a reference to the Part, regulation or, as the case may be, Schedule bearing that number in these Regulations; and
- (b) in a regulation or in a Schedule to a numbered paragraph is a reference to the paragraph bearing that number in that regulation or in that Schedule.

PART II

LOCAL AUTHORITY SCHEMES FOR MEMBERS' ALLOWANCES

Application of Part II

- 3. This Part applies to any local authority.

Allowance schemes

4.—(1) As soon as practicable after 6th April 1995 each authority shall make a scheme in accordance with these Regulations for the payment of allowances.

(2) Subject to paragraph (4) a scheme made in accordance with these Regulations prior to 31st March 1996 may make provision for the payment, after the scheme is made, of allowances to persons who are or have been members of that authority in respect of the period between 6th April 1995 and the coming into effect of the scheme.

(4) Section 33A was inserted by the 1989 Act, section 30(1).

(3) When a scheme is revoked in accordance with regulation 5(1), an authority shall before the revocation takes effect make a further scheme for the period beginning with the date on which the revocation takes effect.

(4) Paragraph (2) does not apply to islands councils.

Amendment of schemes

5.—(1) A scheme made under this Part may be amended at any time but may only be revoked with effect from the beginning of a year.

(2) Where an amendment is to be made which relates to an allowance payable for the year in which the amendment is made, the scheme shall provide—

(a) if the amendment affects such an allowance as is mentioned in regulation 6 or 7, that in relation to each of the periods—

(i) beginning with the first day in that year and ending with the day before that on which the first amendment in that year takes effect; or

(ii) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with 31st March in that year,

the entitlement to such an allowance shall be to payment of such part of the amount of the allowance under the scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of days in the period bears to the number of days in the year;

(b) if the amendment relates to such an allowance as is mentioned in regulation 8, that the entitlement to such an allowance shall be to payment of the amount of the allowance under the scheme as it has effect when the duty is carried out.

Basic allowances

6.—(1) A scheme made under this Part shall provide for the payment for each year to which the scheme relates of an allowance (“basic allowance”) to each member of the authority who is a councillor; and the amount of such allowance shall be the same for each such member.

(2) The scheme shall provide that, where the term of office of a member begins or ends otherwise than at the beginning or end of a year, his entitlement shall be to payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which his term of office as member and councillor subsists bears to the number of days in that year.

(3) Where a scheme is amended as mentioned in paragraph (2) of regulation 5 and the term of office of a member who is a councillor does not subsist throughout the whole of the period mentioned in sub-paragraph (a) of that paragraph, the scheme shall provide that the entitlement of any such member under this regulation shall be to payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his term of office as member and councillor subsists in that period bears to the number of days in the period.

Special responsibility allowances—authorities

7.—(1) A scheme made under this Part may provide, in accordance with paragraph (2), for the payment for each year to which that scheme relates of an allowance (“special responsibility allowance”) to such members of the authority who are councillors as have such special responsibilities in relation to the authority as are specified in the scheme and are within one or more of the following categories:—

- (a) acting as leader or deputy leader of a political group within the authority;
 - (b) presiding at meetings of a committee or sub-committee of the authority;
 - (c) representing the authority at meetings of, or arranged by, any other body;
 - (d) membership of a committee or a sub-committee of the authority which meets with exceptional frequency or for exceptionally long periods;
 - (e) acting as the spokesman of a political group on a committee or sub-committee of the authority;
 - (f) such other activities in relation to the discharge of the authority's functions as require an amount of time and effort equal to or greater than any one of the activities mentioned in sub-paragraphs (a) to (e) (whether or not that activity is specified in the scheme).
- (2) The scheme shall—
- (a) specify the amount of every special responsibility allowance, which need not be the same; and
 - (b) provide that, where—
 - (i) members of an authority are divided into at least two political groups; and
 - (ii) either a majority of members of the authority, or half of such members and the convener of the authority, belong to the same political group (“the controlling group”),
 a special responsibility allowance shall be paid to at least one person who is not a member of the controlling group and has special responsibilities described in paragraph (1)(a) or (e); and
 - (c) provide that, where a member does not have throughout a year any such special responsibilities as entitle him to a special responsibility allowance, his entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year; and
 - (d) provide that, where a scheme is amended as mentioned in paragraph (2) of regulation 5 and a member does not have throughout the whole of any period mentioned in sub-paragraph (a) of that paragraph any such special responsibilities as entitle him to a special responsibility allowance, his entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he has such special responsibilities bears to the number of days in the period.

Attendance allowances

8.—(1) A scheme made under this Part may provide for the payment to each member of the authority who is a councillor of an allowance (“attendance allowance”) in respect of—

- (a) the carrying out of such of the duties referred to in paragraph (2) and not excluded by paragraph (3) as may be specified in the scheme; and
 - (b) the time spent in travelling to and from the location at which any such duty is performed.
- (2) The duties referred to in this paragraph are—
- (a) attendance at a meeting of the authority or of any committee or sub-committee of the authority, or of any other body to which the authority makes appointments, elections or nominations, or of any committee or sub-committee of such a body;
 - (b) attendance at any other meeting the holding of which is authorised by the authority, or a committee or sub-committee of the authority, provided that—

- (i) where the authority is divided into two or more political groups, it is a meeting to which members of at least two such groups have been invited; or
 - (ii) if the authority is not so divided, it is a meeting to which at least two members of the authority have been invited;
- (c) attendance at a meeting of any association of authorities of which the authority is a member;
 - (d) duties undertaken on behalf of the authority in pursuance of any standing orders requiring a member or members to be present while tender documents are opened;
 - (e) duties undertaken on behalf of the authority in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises.
- (3) The duties excluded by this paragraph are those in respect of which the member receives remuneration otherwise than under a scheme made under these Regulations or under the 1991 Regulations.
- (4) The amount of the attendance allowance shall be specified in the scheme and may vary according to the time of day and the duration of the duty; but shall be the same for all members of the authority entitled to the allowance in respect of a duty of any description at the same time of day and of the same duration.
- (5) The scheme shall provide that a member shall not be entitled to payment of an attendance allowance—
- (a) in respect of his attendance at any conference or meeting in relation to which he is entitled to a payment in the nature of an attendance allowance under section 47 of the 1973 Act;
 - (b) where a claim is made by him under the 1991 Regulations for a payment of an attendance allowance to which he is entitled under a scheme made under regulation 8 of the 1991 Regulations in respect of attendance at the same meeting; or
 - (c) if such payment would be contrary to a provision made by or under any enactment.
- (6) The scheme may provide that a member shall not be entitled to payment of more than one attendance allowance in respect of any period of 24 hours beginning at such time as the authority may determine or in respect of more than one of the duties referred to in paragraph (2) carried out at the same meeting.

Amount of allowances etc.

- 9.** A scheme made under this Part shall specify in respect of any year to which it relates—
- (a) the amount of the entitlement by way of basic allowance;
 - (b) where the scheme provides for such allowance, the amount of the entitlement by way of special responsibility allowance (and where different amounts apply to different responsibilities, the amount applicable to each);
 - (c) where the scheme provides for such allowance, the rates applicable to payments by way of attendance allowance.

Elections

- 10.** A scheme made under this Part shall provide that a member may by notice in writing given to the proper officer of the local authority, elect to forgo any part of his entitlement to an allowance under the scheme.

Claims and payments

11.—(1) A scheme made under this Part shall provide that a claim for an attendance allowance under the scheme shall be made—

- (a) in respect of a local authority (other than an islands council), within two months of the later of the date of making of the first scheme made by that authority under these Regulations and the date on which the duty in respect of which the entitlement to the allowance arises is carried out; and
- (b) in respect of an islands council, within two months of the date on which the duty in respect of which the entitlement to the allowance arises is carried out.

(2) Where the allowance is not claimed within the period specified in the scheme, nothing in paragraph (1) shall prevent a local authority from making a payment after the end of that period.

(3) A scheme made under this Part may provide for payments of allowances to be made at such times as may be specified in it, and different times may be specified for different allowances.

(4) A scheme made under this Part may provide that any claim made by a member under that scheme in respect of attendance at a meeting shall, where that member would, apart from the provisions of a scheme made in accordance with regulation 8(5)(b) or regulation 8(5)(aa) of the 1991 Regulations, be entitled to payment of an attendance allowance under both a scheme made under these Regulations and a scheme made under the 1991 Regulations, be accompanied by a declaration that he has not made and will not make a claim under the scheme made under the 1991 Regulations.

PART III

LOCAL AUTHORITY SCHEMES — FINANCIAL RESTRICTIONS

Financial restrictions

12.—(1) A scheme made by a local authority under Part II shall provide that in any year—

- (a) any payment under a scheme in relation to a year is conditional on the aggregate sum which that authority has paid out or is already liable to pay out in respect of the cumulative total of—
 - (i) basic allowance under the scheme made under Part II; and
 - (ii) attendance allowance under a scheme made under Part II (if any); and
 - (iii) attendance allowance (or a payment of that nature) under section 47 of the 1973 Act to a member of the authority who is a councillor (if any),
 not exceeding the standard maximum; and
- (b) any payment by way of attendance allowance for a year whether under a scheme made under Part II or under section 47 of the 1973 Act to a member of the authority who is a councillor is conditional on the total which that authority has paid out or is already liable to pay out by way of such attendance allowance in relation to a year not exceeding 25% of the standard maximum.

(2) Subject to paragraph (3), the “standard maximum” means an amount equal to the product of—

- (a) the amount determined in relation to the local authority by reference to the Table in Schedule 2; and
- (b) the number of persons who may at the same time be councillors of that local authority.

(3) In respect of any year from the year beginning 1st April 1996 (or in respect of an islands council, the year beginning 6th April 1995), a scheme may provide that the standard maximum calculated in accordance with paragraph (2) shall be increased provided—

- (a) that such maximum shall in no year exceed 105% of the standard maximum calculated in accordance with paragraph (2);
- (b) that where in respect of any year the standard maximum is increased, the standard maximum in the year following shall not exceed—
 - (i) the standard maximum calculated in accordance with paragraph (2); less
 - (ii) the difference between the standard maximum calculated in accordance with paragraph (2) and the amount paid in the preceding year.

PART IV

JOINT BOARD SCHEMES FOR MEMBERS' ALLOWANCES

Application of Part IV

13. This Part applies to any joint board.

Members of joint boards to be treated as councillors

14. For the purposes of section 18 of the 1989 Act, a member of a joint board shall be treated as if he were a councillor.

Schemes for special responsibility allowances

15. A joint board may make a scheme in accordance with the provisions of this Part providing for the payment for each year to which the scheme relates of a special responsibility allowance to such members of the board as have such special responsibilities in relation to the board as are specified in the scheme and are within one of the following categories:—

- (a) acting as chairman or vice-chairman of the board;
- (b) representing the board at meetings of, or arranged by, any other body;
- (c) such other activities in relation to the discharge of the board's functions as require an amount of time and effort equal to or greater than any of the activities mentioned in subparagraphs (a) and (b) (whether or not that activity is specified in the scheme).

Amount of special responsibility allowance

16. Any scheme made under this Part—

- (a) shall specify the amount of every special responsibility allowance, and, where different amounts apply to different responsibilities, the amount applicable to each;
- (b) shall provide that, where a member does not have throughout a year any such special responsibilities as entitle him to a special responsibility allowance, his entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year; and
- (c) may provide that payments of special responsibility allowances are to be made at such times as that scheme shall specify.

Payments

17. A scheme made by a joint board under this Part shall provide that—

- (a) each constituent council shall notify the joint board before the beginning of a year to which the scheme relates of the amount, if any, which that council has allocated towards payment of special responsibility allowances for that year under the scheme;
- (b) any special responsibility allowance payable under the scheme in relation to any year shall be paid by each constituent council in the proportion which the amount, if any, for that year which that council has notified to the joint board in accordance with paragraph (a) bears to the aggregate amount for that year which all the constituent councils have notified to the joint board in accordance with that paragraph; and
- (c) any payment by a constituent council by way of special responsibility allowance under the scheme in relation to any year is conditional on the aggregate amount which that constituent council and any other constituent council have paid out or are already liable to pay out by way of such allowance under the scheme in relation to that year not exceeding the total of the amounts, if any, which each constituent council has notified to the joint board in accordance with paragraph (a).

Elections

18. A scheme made under this Part shall provide that a member may by notice in writing given to the proper officer of the joint board elect to forgo any part of his entitlement to an allowance under the scheme.

Making, revocation and amendment of schemes

19.—(1) Subject to paragraph (2), any scheme made under this Part shall be in respect of a year or years and shall be made before the beginning of the first year to which it relates.

(2) Any scheme made under this Part may be amended at any time but may only be revoked with effect from the beginning of a year.

(3) Where an amendment is to be made which relates to a special responsibility allowance payable for the year in which the amendment is made, the scheme shall provide—

- (a) that in relation to each of the periods—
 - (i) beginning with the first day in that year and ending with the day before that on which the first amendment in that year takes effect; or
 - (ii) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with 31st March in that year,

the entitlement to such an allowance shall be to payment of such part of the amount of the allowance under the scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of days in the period bears to the number of days in the year; and

- (b) that, where a member does not have throughout the whole of any period mentioned in sub-paragraph (a) any such special responsibilities as entitle him to a special responsibility allowance, his entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he has such special responsibilities bears to the number of days in the period.

PART V

OTHER ALLOWANCES

Financial restrictions—allowances under section 45 of the 1973 Act

20. The amount prescribed for the purposes of section 45(4) of the 1973 Act (financial loss allowance) is—

- (a) for a period not exceeding 4 hours, £22.30;
- (b) for a period exceeding 4 hours but not exceeding 24 hours, £44.60;
- (c) for a period exceeding 24 hours, the aggregate of £44.60 and such amount specified in paragraph (a) or (b) as is appropriate to the number of hours by which the period exceeds 24 hours.

Financial restrictions—allowances under section 47 of the 1973 Act

21. Any payment of an allowance under section 47 of the 1973 Act in the nature of an attendance allowance to a person other than a member of the authority who is a councillor shall not exceed £26.20 for any period not exceeding 24 hours; and for this purpose a period of 24 hours shall be deemed to begin at 3am.

PART VI

ADMINISTRATIVE ARRANGEMENTS

Avoidance of duplication

22. A claim for an attendance allowance under a scheme under Part II or an allowance under any provision in sections 45 to 50 of the 1973 Act shall include, or be accompanied by, a statement signed by the claimant that he has not made and will not make any other claim in respect of the matter to which his claim relates.

23. No payment shall be made to a person under any provision of sections 45 to 50 of the 1973 Act in respect of any matter as regards which a payment has been made to him pursuant to any provision of a scheme made under Part II or Part IV of these Regulations or Part II or Part IV of the 1991 Regulations.

24.—(1) A person who, in a period mentioned in regulation 20—

- (a) performs an approved duty or approved duties as a member of more than one body; or
- (b) performs two or more approved duties for the same body; or
- (c) is entitled to an allowance under section 45(4) of the 1973 Act and to a payment of a comparable allowance under any other enactment,

shall not be entitled to payments under that section which in total exceed the amount prescribed by regulation 20 for that period.

(2) A body to which these Regulations apply paying an allowance under section 45(4) of the 1973 Act to a person for an approved duty as described in paragraph (1) may reduce the amount of that allowance by the amount of any other allowance under the said section 45(4) or any comparable allowance under any enactment paid by another body.

25.—(1) A member shall not be entitled to take expenditure on travelling into account for the purposes of more than one claim.

(2) A member shall not be entitled to take any period of absence from his usual place of residence into account for the purposes of more than one claim.

Claims for allowances

26.—(1) Any claim for a financial loss allowance under section 45(4) of the 1973 Act shall be made in the form set out in Schedule 3 or in a form substantially to the like effect.

(2) Any claim for a travelling and subsistence allowance under section 46 of the 1973 Act⁽⁵⁾ shall be made in the form set out in Schedule 4 or in a form substantially to the like effect.

(3) The forms set out in Schedules 3 and 4 shall apply, with any necessary modifications, to any claim for an allowance under section 47 or 48 of the 1973 Act.

Determination of body by whom payments are to be made

27.—(1) Subject to paragraph (2), any payment under section 45(4) or 46 of the 1973 Act shall be made by the body for which the relevant approved duty was performed.

(2) Where an approved duty, in relation to a member of a body, consists of the doing of anything as a member of some other body to which he has been appointed as described in section 49(2)(c) of the 1973 Act and that body falls within any of paragraphs (c), (d) or (e) of section 49(1) of that Act⁽⁶⁾, a payment may be made by either of those bodies.

Records of allowances

28.—(1) Every local authority and joint board shall keep a record of the payments made by it in accordance with any scheme made pursuant to these Regulations.

(2) Every authority or body to whom any of sections 45 to 49A of the 1973 Act applies shall keep a record of the payments made by it by virtue of any of those sections.

(3) A record kept pursuant to either of the preceding paragraphs shall specify in relation to each payment—

- (a) the name of the recipient; and
- (b) the amount and nature of the payment.

(4) A record kept pursuant to either of paragraphs (1) or (2) shall be published by that authority, joint board or other body in such manner and at such frequency (and, in any event, not later than 1st June in each year in respect of the previous year) as that authority, joint board or other body consider fit, and shall be available, at all reasonable times, for inspection (free of charge)—

- (a) where it is kept by a local authority, by any local government elector for the area of that authority;
- (b) where it is kept by any other body, by any local government elector for the area of any local authority in whose area the body operates.

(5) A person entitled to inspect a record under paragraph (4) may make a copy of any part of it.

(5) 1973 c. 65; section 46(1) was amended by and section 46(2) was repealed by the 1980 Act, section 25(1) and Schedule 34, Part XVI respectively.

(6) Section 49(1)(b) and (f) were repealed by the Local Government (Scotland) Act 1975 (c. 30), Schedule 7.

PART VII

AMENDMENTS, REVOCATIONS, SAVINGS AND TRANSITIONAL PROVISIONS

Amendment of 1991 Regulations

29. The 1991 Regulations shall be amended as set out in Schedule 5.

Revocations

30.—(1) Subject to paragraph (3) and regulation 31, the provisions specified in paragraph (2) shall be revoked with effect from 1st April 1996.

(2) The provisions referred to in paragraph (1) are—

- (a) the 1991 Regulations;
- (b) the Local Authorities Etc. (Allowances) (Scotland) Amendment Regulations 1992(7);
- (c) the Local Authorities Etc. (Allowances) (Scotland) Amendment Regulations 1993(8);
- (d) the Local Authorities Etc. (Allowances) (Scotland) Amendment Regulations 1994(9);
- (e) the Local Authorities Etc. (Allowances) (Scotland) Amendment Regulations 1995(10);
and
- (f) Regulation 29 and Schedule 5.

(3) Paragraph (1) is without prejudice to the savings from repeal in terms of—

- (a) regulation 8(2) of the said Regulations of 1993;
- (b) regulation 3(2) of the said Regulations of 1994; and
- (c) regulation 3(2) of the said Regulations of 1995.

Savings

31. Without prejudice to section 16 of the Interpretation Act 1978(11) any provision of the 1991 Regulations revoked by virtue of regulation 30(1) shall continue to have effect in relation to claims made for allowances or other payments in respect of duties performed before 1st April 1996.

Transitional provisions in respect of islands councils

32.—(1) Each islands council shall revoke any scheme made by them under regulation 4(1) of the 1991 Regulations and such revocation shall have effect (notwithstanding regulation 5(1) of the 1991 Regulations) at the date on which the scheme made by that council under regulation 4(1) of these Regulations comes into effect.

(2) In the period from 6th April 1995 to the date referred to in paragraph (1), regulation 4(2) of the 1991 Regulations shall apply to that islands council as if the further scheme referred to were a scheme made under regulation 4(1) of these Regulations and from the date referred to in paragraph (1), regulations 2(2), 4 to 9, 22 and 23 of the 1991 Regulations shall cease to apply to that islands council.

(3) For the purpose of the application of regulation 12 to islands councils in respect of the year ending 31st March 1996, the standard maximum shall be the amount calculated in accordance with

(7) [S.I. 1992/505](#).
(8) [S.I. 1993/644](#).
(9) [S.I. 1994/630](#).
(10) [S.I. 1995/701](#).
(11) [1978 c. 30](#).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

regulation 12(2) less the amount which that council has paid out or is already liable to pay out under a scheme made under regulation 4(1) of the 1991 Regulations.

St Andrew's House,
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28th March 1995

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