



**The Local Government Pension Scheme
(Scotland)**

**Application of a Pension Credit to the Former Spouse or
Civil Partner of the Member**

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1 Legislative Background

- 1.1 Regulation 89 (4) of the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 (SSI 2008/228) (the “2008 Regulations”) provides that the value of rights conferred on the former spouse or civil partner (the “pension credit member”) following a divorce proceeding are equal to the amount of the pension credit. The Scottish Public Pensions Agency (“SPPA”) have instructed the Government Actuary’s Department (“GAD”) to provide guidance on the calculation of the rights to satisfy this requirement.
- 1.2 Regulation 94(5) of the 2008 Regulations provides that, where the former spouse or civil partner dies before the administering authority has awarded the pension credit, that liability may be discharged by the appropriate authority by the payment of a lump sum. Regulation 94(6) provides that in these circumstances the lump sum shall be equal to 3 times the annual rate of the pension which would have been paid to the former spouse or civil partner if on the date of the death the former spouse or civil partner had become entitled to a pension as a pension credit member, calculated in accordance with guidance issued by the Government Actuary, in his capacity as scheme actuary.
- 1.3 The purpose of this note prepared by GAD for SPPA, and issued to them for onward transmission to administering authorities and employing authorities, is to provide the guidance specified in paragraph 1.1 as instructed by SPPA. It is also the guidance referenced under Regulation 94(6) of the 2008 Regulations.
- 1.4 The guidance is designed to be consistent with the Welfare Reform and Pensions Act 1999 (“the Act”) and associated regulations.

Implementation and Review

- 1.5 The factors and guidance contained in this note should be followed with immediate effect.
- 1.6 The factors contained in this note are taken from other guidance issued by GAD, which will be reviewed periodically. This will depend on external circumstances, for example when the LGPS cash equivalent transfer value basis is reviewed, when changes in the actuarial assumptions adopted for other scheme factors take place, changes in the benefit design or following each triennial cycle of future valuations of the LGPS (Scotland).
- 1.7 Administrators need to ensure that they are using the latest factors in circulation, or that the factors used are consistent with the factors used to calculate the cash equivalent value for divorce purposes. The factors contained in this note are taken from the following GAD notes ‘Actuarial Factors for Individual Cash Equivalent and Club Transfers from 1 January 2012’ version 4.1 dated 22 February 2012; and ‘Pensioner Cash Equivalent Factors on Divorce’ version 1.0 dated 18 January 2012.
- 1.8 I have followed our normal quality processes for work conducted on public service pension matters¹.

¹ GAD seeks to achieve a high standard in all our work. Please go to our [website](#) for details of the standards we apply.

Limitations

- 1.9 This note should not be used for any purpose other than to determine the pension credit in the scheme for an ex-spouse or ex-civil partner following a divorce proceeding.
- 1.10 This note should be considered in its entirety as individual sections, if considered in isolation, may be misleading, and conclusions reached by a review of some sections on their own may be incorrect.
- 1.11 Administrators should satisfy themselves that the pension credit resulting from a pension sharing on divorce complies with all legislative requirements including, but not limited to, tax and contracting out requirements. Any legal advice in this area should be sought from an appropriately qualified person or source.
- 1.12 This guidance is based on the regulation in force at the time of writing. It is possible that future changes to the Regulations would create inconsistencies between this guidance and the Regulations. In no circumstances should this guidance take precedence over scheme Regulations. Administrators should ensure that they comply with all relevant LGPS (Scotland) Regulations.

2 Introduction

- 2.1 Where a pension sharing order is issued by the Court, the former spouse or civil partner is allocated a monetary amount of the member's benefits. This can be converted into a percentage by dividing this monetary amount by the cash equivalent value of the members total benefits. These rights can be discharged by the administering authority, either by making a transfer payment to another appropriate scheme (as prescribed in the relevant legislation), or by establishing a pension credit within the administering authority's fund.
- 2.2 The general principle is that the pension credited in the fund is actuarially equivalent to the proportion of the cash equivalent awarded to the former spouse or civil partner and the benefits the former spouse or civil partner would be entitled to under the LGPS Regulations. The value of the pension credit is calculated in a manner which is consistent with the methodology and assumptions for incoming transfers from Club schemes under Regulation 79 of the 2008 Regulations; the benefit design, though, should reflect paragraph 3.1.3 of this guidance (rather than 1/60ths in every case).
- 2.3 It is assumed that the cash equivalent of a member's benefit for divorce purposes has already been determined in accordance with the latest GAD note "Pension Sharing Following Divorce – Calculation of Cash Equivalents".
- 2.4 The methodology and instructions described in this note can be adopted and applied in respect of the benefits for the former spouse or civil partner of a Councillor member.

3 Pension Credit Benefits

3.1 The main benefits are as follows:

3.1.1 A pension payable for life from age 65.

3.1.2 A retirement lump sum of three times the annual rate of the pension is payable in respect of the member's service before 1 April 2009 (but no lump sum is payable if the member has already claimed this by the Transfer day).

3.1.3 Following discussions with GAD, SPPA have set the benefit design of pension credits for the former spouse or civil partner, which depend on the member's period of active service, as follows:

| | Pension Credit Design |
|---|--|
| Member left before 1 April 2009 | Pension and lump sum (but pension only if member has taken their lump sum) |
| Member joined on or after 1 April 2009 | Pension only |
| Member with service before and after 1 April 2009 | Pension and lump sum in respect of the member's CETV for service before 1 April 2009 (but pension only if the member has taken their lump sum); and Pension in respect of the member's CETV for service from 1 April 2009 |

3.1.1 This guidance is written on the basis that pension credit benefits are in line with SPPA's intentions, as described above.

3.1.2 Pension credit benefits can be taken on an actuarially reduced basis at or after age 60; further guidance is contained in GAD's Early Retirement Guidance.

3.1.3 Pension and lump sum benefits are increased in accordance with the Pensions Increase Act with effect from the Transfer day.

3.2 If the pension credit member dies before the administering authority has awarded the pension credit, that liability may be discharged by the authority through the payment of a lump sum that is equal to 3 times the annual rate of the pension which would have been paid to the pension credit member (as calculated in section 4 of this note).

4 Calculation of the Pension Credit

- 4.1 This section sets out the methodology for calculating the pension credit following the issue of a pension sharing order by the Court.

Appropriate Percentage

- 4.2 For divorces in Scotland, the pension sharing order will usually specify a monetary amount, which can be translated into a percentage of the member's benefits that the former spouse or civil partner will be entitled to (the "appropriate percentage"). This guidance note will refer to the 'appropriate percentage' rather than a monetary amount.
- 4.3 The former spouse or civil partner's cash equivalent ("ESCE") is determined by applying the appropriate percentage to the cash equivalent of a member's benefit for divorce purposes (see paragraph 2.3). For members with service both before and after 1 April 2009 the member's cash equivalent can be expressed as an amount for pre 1 April 2009 service and an amount for post 1 April 2009 service. The appropriate percentage can be applied to both these elements separately, in order to express the ESCE as an amount in respect pre 1 April 2009 service ("ESCE₁") and an amount for post 1 April 2009 service ("ESCE₂").

Calculation

- 4.4 There are two dates which are of relevance when determining the pension credits; the "Transfer day" and the "Valuation date".
- 4.5 Section 29(8) of the Act defines the Transfer day as the day on which the pension sharing order takes effect. (The Transfer day is sometimes also referred to as the Effective date.)
- 4.6 Section 34(1) of the Act defines the Implementation Period as the four month period that starts on the Transfer day, or if later, on the date the pension scheme has the prescribed information needed to implement the pension sharing order.
- 4.7 Section 29 (7) of the Act defines the valuation day as a day within the implementation period specified by the administering authority by notice in writing to the pension debit member and pension credit member. (The Valuation date is sometimes referred to as the Implementation date or the Calculation date.)
- 4.8 The calculation of the pension credit should be based on the age and gender of the former spouse or civil partner at the Transfer day. Do not use the age and gender of the member.
- 4.9 The calculation of the pension credit will depend on:
- gender of the former spouse or civil partner;
 - whether the former spouse or civil partner is above or below age 65 at the Transfer day;.
 - whether the member has any service before 1 April 2009 and is therefore entitled to an automatic lump sum, and
 - whether the member had received their automatic lump sum prior to the Transfer day.

Pension credit calculation for former spouse or civil partner below age 65

- 4.10 If the member has **not** received their lump sum prior to the Transfer day but is entitled to an automatic lump sum in respect of service before 1 April 2009, the pension credit as at the Transfer day will be:

Pension credit in respect of pre 1 April 2009 service:

$$PC_1 = ESCE_1 \div (F_P + 3 \times F_L)$$

Pension credit in respect of post 1 April 2009 service:

$$PC_2 = ESCE_2 \div F_P$$

Total pension credit = $PC_1 + PC_2$

A lump sum of three times the annual pension credit in respect of pre 1 April 2009 service (ie $3 \times PC_1$) will also be due to the former spouse or civil partner at age 65 (or earlier if benefits are taken on an actuarially reduced basis).

If a member has pre 1 April 2009 service only then PC_2 is zero.

- 4.11 If the member **has** received their lump sum prior to the Transfer day or has no service before 1 April 2009, the former spouse or civil partner is not entitled to a lump sum, and the pension credit as at the Transfer day will be:

$$\text{Pension credit} = ESCE \div F_P$$

Where:

ESCE the former spouse or civil partner's cash equivalent (see paragraph 4.3 of this note)

ESCE₁ the former spouse or civil partner's cash equivalent in respect of service pre 1 April 2009

ESCE₂ the former spouse or civil partner's cash equivalent in respect of service post 1 April 2009

F_P factor for pension for former spouse or civil partner from Table 6.1 or 6.2. The factors in this table are copies of the 'Club and outward CETV factors' in tables 1.1 and 1.2 of version 4.1 of the transfer suite dated 22 February 2012. If the transfer suite has been updated in the meantime then the most recent factors from that guidance should be used in these calculations.

F_L factor for lump sum for former spouse or civil partner from Table 6.1 or 6.2. The factors in this table are copies of the 'Club and outward CETV factors' in tables 1.1 and 1.2 of version 4.1 of the transfer suite dated 22 February 2012. If the transfer suite has been updated in the meantime then the most recent factors from that guidance should be used in these calculations.

Pension credit calculation for former spouse or civil partner age 65 or above

- 4.12 If the member has *not* received their automatic lump sum prior to the Transfer day but is entitled to an automatic lump sum in respect of service before 1 April 2009, the pension credit as at the Transfer day will be:

Pension credit in respect of pre 1 April 2009 service:

$$PC_1 = ESCE_1 \div (F_P + 3 \times F_L)$$

Pension credit in respect of post 1 April 2009 service:

$$PC_2 = ESCE_2 \div F_P$$

$$\text{Total credit} = PC_1 + PC_2$$

A lump sum of three times the annual pension credit in respect of pre 1 April 2009 service (ie $3 \times PC_1$) will be also due to the former spouse or civil partner in addition to the credit so determined.

- 4.13 If the member **has** received their automatic lump sum prior to the Transfer day or has no service before 1 April 2009, the former spouse or civil partner is not entitled to a lump sum, and the pension credit as at the Transfer day will be:

$$\text{Pension credit} = ESCE \div F_P$$

Where:

ESCE the former spouse or civil partner's cash equivalent (see paragraph 4.3 of this note)

ESCE₁ the former spouse or civil partner's cash equivalent in respect of service pre 1 April 2009

ESCE₂ the former spouse or civil partner's cash equivalent in respect of service post 1 April 2009

F_P factor for pension for former spouse or civil partner from Table 7.1 or 7.2. The factors in this table are copies of the 'Pensioner Cash Equivalent Factors on Divorce' contained in tables 1.1 and 1.2 of version 1.0 of the GADs 'Pensioner Cash Equivalent Factors on Divorce' dated 18 January 2012. If that guidance has been updated in the meantime then the most recent factors from that guidance should be used in these calculations.

5 Examples

EXAMPLE 1: Pension credit calculation for a former spouse aged under 65 where the member has service before and after 1 April 2009 but has not received their lump sum

Former spouse data:

Date of birth: 1 March 1972
Sex: Female
Transfer day: 1 January 2013
Age at Transfer day: 40

Factors (Female former spouse aged 40 last birthday at Transfer day)

| | | |
|---|----------------------|------|
| Gross pension factor (NRA 65) – Table 6.2 | F_P | 8.79 |
| Lump sum factor (NRA 65) – Table 6.2 | F_L | 0.49 |

Calculations

| | |
|--|--------------------|
| CETV in respect of service before 1 April 2009 = | £60,643.90 |
| CETV in respect of service from 1 April 2009 = | £15,160.98 |
| Total CETV | £75,804.88 |
| Appropriate percentage = | 50% |
| ESCE ₁ = 50% x £60,643.90 = | £30,321.95 |
| ESCE ₂ = 50% x £15,160.98 = | £7,580.49 |
| Pension credit from age 65 in respect of service pre 1 April 2009: PC ₁ = ESCE ₁ ÷ (F _P + 3 x F _L) = | £2,955.36pa |
| Pension credit from age 65 in respect of service post 1 April 2009: PC ₂ = ESCE ₂ ÷ F _P = | £862.40pa |
| Total pension credit = PC ₁ + PC ₂ = | £3,817.76pa |
| Lump sum at age 65 in respect of pre 1 April 2009 service = 3 x PC ₁ = | £8,866.08 |

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EXAMPLE 2: Pension credit calculation for a former spouse aged under 65 where the member has no service after 1 April 2009 and has not received their lump sum

Former spouse data:

Date of birth: 1 March 1967
 Sex: Male
 Transfer day: 1 January 2013
 Age at Transfer day: 45

Factors (Male former spouse aged 45 last birthday at Transfer day)

| | | |
|---|----------------------|------|
| Gross pension factor (NRA 65) – Table 6.1 | F_P | 9.45 |
| Lump sum factor (NRA 65) – Table 6.1 | F_L | 0.57 |

Calculations

CETV (all pre 1 April 2009) 50,000.00

Appropriate percentage = 40%

ESCE₁ = 40% x £50,000.00 = £20,000.00

Pension credit from age 65 in respect of service pre 1 April 2009:
 PC₁ = ESCE₁ ÷ (F_P + 3 x F_L) = **£1,792.11pa**

Lump sum at age 65 in respect of pre 1 April 2009 service = 3 x PC₁ = **£5,376.33**

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EXAMPLE 3: Pension credit calculation for a former spouse aged under 65 where the member has no service before 1 April 2009

Former spouse data:

Date of birth: 1 April 1967
 Sex: Female
 Transfer day: 1 January 2013
 Age at Transfer day: 45

Factors (Female former spouse aged 45 last birthday at Transfer day)

| | | |
|----------------------------------|----------------------|-------|
| Gross pension factor – Table 6.2 | F_P | 10.09 |
|----------------------------------|----------------------|-------|

Calculations

CETV (all post 1 April 2009) = £13,895.43
 Appropriate percentage = 50%
 ESCE = 50% x £13,895.43 = £6,947.72
 Pension credit from age 65= ESCE ÷ F_P = **£688.57 pa**

In this example the member is not entitled to an automatic lump and therefore the former spouse is not entitled to a lump sum either.

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Application of a Pension Credit to the Former Spouse or Civil Partner of the Member

EXAMPLE 4: Pension credit calculation for a former spouse aged over 65 and where the member has received their lump sum (or had no automatic entitlement to a lump sum in respect of service before 1 April 2009)

Former spouse data:

Date of birth: 1 March 1937
Sex: Female
Transfer day: 1 January 2013
Age at Transfer day: 75

Factors (Female former spouse aged 75 last birthday at Transfer day)

| | | |
|----------------------------------|-------|-------|
| Gross pension factor – Table 7.2 | F_p | 12.67 |
|----------------------------------|-------|-------|

Calculations

CETV = £105,602.35
Appropriate percentage = 50%
ESCE = 50% x £105,602.35 = £52,801.18
Pension credit payable immediately = $ESCE \div F_p =$ **£4,167.42 pa**

In this example the member had already received their lump sum by the Transfer day (or was not entitled to one because of no service before 1 April 2009) so therefore the former spouse is not entitled to a lump sum.

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Application of a Pension Credit to the Former Spouse or Civil Partner of the Member

6 Factors applicable to former spouse or civil partner below age 65

Table 6.1 – Males

| Age last birthday at relevant date | Gross Pension of £1 per annum | Lump Sum of £1 |
|------------------------------------|-------------------------------|----------------|
| 16 | 4.32 | 0.25 |
| 17 | 4.44 | 0.25 |
| 18 | 4.56 | 0.26 |
| 19 | 4.69 | 0.27 |
| 20 | 4.81 | 0.28 |
| 21 | 4.94 | 0.28 |
| 22 | 5.08 | 0.29 |
| 23 | 5.22 | 0.30 |
| 24 | 5.36 | 0.31 |
| 25 | 5.50 | 0.32 |
| 26 | 5.65 | 0.33 |
| 27 | 5.80 | 0.34 |
| 28 | 5.96 | 0.35 |
| 29 | 6.12 | 0.36 |
| 30 | 6.29 | 0.37 |
| 31 | 6.46 | 0.38 |
| 32 | 6.64 | 0.39 |
| 33 | 6.82 | 0.40 |
| 34 | 7.00 | 0.41 |
| 35 | 7.19 | 0.43 |
| 36 | 7.39 | 0.44 |
| 37 | 7.59 | 0.45 |
| 38 | 7.80 | 0.47 |
| 39 | 8.02 | 0.48 |
| 40 | 8.24 | 0.49 |
| 41 | 8.47 | 0.51 |
| 42 | 8.70 | 0.52 |
| 43 | 8.94 | 0.54 |
| 44 | 9.19 | 0.55 |
| 45 | 9.45 | 0.57 |
| 46 | 9.71 | 0.59 |
| 47 | 9.98 | 0.60 |
| 48 | 10.26 | 0.62 |
| 49 | 10.55 | 0.64 |
| 50 | 10.84 | 0.66 |
| 51 | 11.15 | 0.68 |
| 52 | 11.46 | 0.70 |
| 53 | 11.79 | 0.72 |
| 54 | 12.13 | 0.74 |
| 55 | 12.48 | 0.76 |
| 56 | 12.84 | 0.78 |
| 57 | 13.22 | 0.80 |
| 58 | 13.62 | 0.83 |
| 59 | 14.03 | 0.85 |

Note

The factor should reflect the age and gender of the former spouse or civil partner at the transfer date (not the age and gender of the member).

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Table 6.1 – Males (continued)

| Age last birthday at relevant date | Gross Pension of £1 per annum | Lump Sum of £1 |
|---|--------------------------------------|-----------------------|
| 60 | 14.46 | 0.88 |
| 61 | 14.92 | 0.90 |
| 62 | 15.39 | 0.93 |
| 63 | 15.89 | 0.96 |
| 64 | 16.42 | 0.99 |

Note

The factor should reflect the age and gender of the former spouse or civil partner at the transfer date (not the age and gender of the member).

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Table 6.2 – Females

| Age last birthday at relevant date | Gross Pension of £1 per annum | Lump Sum of £1 |
|---|--------------------------------------|-----------------------|
| 16 | 4.59 | 0.24 |
| 17 | 4.72 | 0.25 |
| 18 | 4.84 | 0.26 |
| 19 | 4.98 | 0.27 |
| 20 | 5.11 | 0.27 |
| 21 | 5.25 | 0.28 |
| 22 | 5.40 | 0.29 |
| 23 | 5.54 | 0.30 |
| 24 | 5.70 | 0.31 |
| 25 | 5.85 | 0.32 |
| 26 | 6.01 | 0.33 |
| 27 | 6.18 | 0.34 |
| 28 | 6.35 | 0.35 |
| 29 | 6.52 | 0.36 |
| 30 | 6.70 | 0.37 |
| 31 | 6.88 | 0.38 |
| 32 | 7.07 | 0.39 |
| 33 | 7.26 | 0.40 |
| 34 | 7.46 | 0.41 |
| 35 | 7.67 | 0.43 |
| 36 | 7.88 | 0.44 |
| 37 | 8.10 | 0.45 |
| 38 | 8.32 | 0.46 |
| 39 | 8.55 | 0.48 |
| 40 | 8.79 | 0.49 |
| 41 | 9.03 | 0.51 |
| 42 | 9.29 | 0.52 |
| 43 | 9.54 | 0.54 |
| 44 | 9.81 | 0.55 |
| 45 | 10.09 | 0.57 |
| 46 | 10.37 | 0.59 |
| 47 | 10.66 | 0.60 |
| 48 | 10.96 | 0.62 |
| 49 | 11.27 | 0.64 |
| 50 | 11.59 | 0.66 |
| 51 | 11.92 | 0.68 |
| 52 | 12.27 | 0.70 |
| 53 | 12.62 | 0.72 |
| 54 | 12.99 | 0.74 |
| 55 | 13.37 | 0.76 |
| 56 | 13.77 | 0.78 |
| 57 | 14.18 | 0.80 |
| 58 | 14.61 | 0.83 |
| 59 | 15.05 | 0.85 |

Note

The factor should reflect the age and gender of the former spouse or civil partner at the transfer date (not the age and gender of the member).

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Table 6.2 – Females (continued)

| Age last birthday at relevant date | Gross Pension of £1 per annum | Lump Sum of £1 |
|---|--------------------------------------|-----------------------|
| 60 | 15.52 | 0.88 |
| 61 | 16.00 | 0.90 |
| 62 | 16.49 | 0.93 |
| 63 | 17.01 | 0.96 |
| 64 | 17.55 | 0.99 |

Note

The factor should reflect the age and gender of the former spouse or civil partner at the transfer date (not the age and gender of the member).

7 Factors applicable to former spouse or civil partner age 65 or above

Table 7.1 – Males

| Age last birthday at relevant date | Member's Pension of £1 per annum |
|---|---|
| 65 | 16.37 |
| 66 | 15.90 |
| 67 | 15.43 |
| 68 | 14.94 |
| 69 | 14.44 |
| 70 | 13.94 |
| 71 | 13.45 |
| 72 | 12.95 |
| 73 | 12.45 |
| 74 | 11.95 |
| 75 | 11.45 |
| 76 | 10.95 |
| 77 | 10.44 |
| 78 | 9.93 |
| 79 | 9.42 |
| 80 | 8.90 |
| 81 | 8.39 |
| 82 | 7.89 |
| 83 | 7.40 |
| 84 | 6.93 |
| 85 | 6.49 |
| 86 | 6.07 |
| 87 | 5.67 |
| 88 | 5.30 |
| 89 | 4.96 |
| 90 | 4.64 |
| 91 | 4.35 |
| 92 | 4.08 |
| 93 | 3.82 |
| 94 | 3.58 |
| 95 | 3.35 |

Note

The factor should reflect the age and gender of the former spouse or civil partner at the transfer date (not the age and gender of the member).

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Table 7.2 – Females

| Age last birthday at relevant date | Member's Pension of £1 per annum |
|---|---|
| 65 | 17.54 |
| 66 | 17.09 |
| 67 | 16.63 |
| 68 | 16.16 |
| 69 | 15.68 |
| 70 | 15.19 |
| 71 | 14.70 |
| 72 | 14.20 |
| 73 | 13.69 |
| 74 | 13.18 |
| 75 | 12.67 |
| 76 | 12.15 |
| 77 | 11.62 |
| 78 | 11.09 |
| 79 | 10.55 |
| 80 | 10.00 |
| 81 | 9.46 |
| 82 | 8.92 |
| 83 | 8.39 |
| 84 | 7.89 |
| 85 | 7.40 |
| 86 | 6.94 |
| 87 | 6.50 |
| 88 | 6.09 |
| 89 | 5.69 |
| 90 | 5.32 |
| 91 | 4.97 |
| 92 | 4.63 |
| 93 | 4.31 |
| 94 | 4.01 |
| 95 | 3.72 |

Note

The factor should reflect the age and gender of the former spouse or civil partner at the transfer date (not the age and gender of the member).

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