



Oil & Gas
Authority

OGA response to the consultation on proposals to introduce new OGA fees and amend the methodology to calculate the levy

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General information

Purpose of this document

This document sets out the OGA's response to the consultation on proposals to introduce new OGA fees and to amend the methodology to calculate the levy.

Consultation reference: [consultation on proposals to introduce new OGA fees and to amend the methodology to calculate the levy](#)

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Quality assurance

This consultation has been conducted in line with the [government's consultation principles](#).

If you have any complaints about the consultation process (as opposed to comments about the issues which were the subject of the consultation) please address them to:

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Introduction and background

1. The Oil and Gas Authority (OGA) was formed in April 2015, initially as an executive agency of the Department of Energy and Climate Change (now Business Energy and Industrial Strategy (BEIS)). In October 2016 the OGA became a government company, limited by shares under the Companies Act 2006, with the Secretary of State for BEIS as the sole shareholder. The OGA's role is to regulate, influence and promote the UK oil and gas industry in order to maximise the economic recovery of the UK's oil and gas resources¹.
2. As set out in *Managing Public Money*², it is government policy to charge for many publicly provided goods and services. Charging for services relieves the general taxpayer of costs properly borne by users who benefit directly from a service. The OGA recovers its costs via direct fees for specific activities and a levy on all offshore petroleum licence holders, designed to cover remaining net expenditure.
3. Pursuant to the requirements of the Energy Act 2016, BEIS consulted with the OGA on a proposal to amend the OGA's levy and fees regulations to promote exploration and ensure compliance with Managing Public Money principles.
4. To inform its response to BEIS, the OGA held a consultation exercise³ between 7 November 2016 and 5 December 2016 to seek views on these proposals. Part 1 of the consultation sought views on proposed changes to the fees the OGA charges. Part 2 sought views on proposed changes to the methodology for calculating the levy on pre-production licences.
5. This document lists the organisations that responded to the consultation, summarises the responses received and sets out the OGA's response to the issues raised in the consultation and its next steps.

Quality

6. Seventeen consultation responses were received, 14 from companies and three from industry representative organisations. A list of respondents can be found in Annex A.
7. All responses were received by e-mail.

¹ The OGA also regulates the UK's carbon storage, gas storage and offloading activities.

² www.hm-treasury.gov.uk/psr_mpm_index.html

³ www.ogauthority.co.uk/news-publications/consultations/2016/consultation-on-proposals-to-introduce-new-oga-fees-and-amend-the-methodology-to-calculate-the-levy/

Part 1: New fees and charges

Introduction and background

8. The OGA provides a range of services to specific licence holders. These services include issuing licences to search and bore for and get petroleum, as well as issuing relevant consents and permits. In accordance with Managing Public Money, where possible, the costs of these services are recovered via direct fees rather than via the levy to ensure that only those benefiting from a service will bear its costs.
9. The OGA proposed introducing new direct fees for specific activities in line with the established principle across regulation and service delivery of 'user pays', where the regulator recovers its costs from those benefitting from its services. The proposal to introduce new direct fees does not impose new costs on industry as any additional charges introduced will be deducted from the overall amount payable by industry through the levy.
10. Three charging methodologies were proposed for these services – fixed fees, time-sheeted fees and a bespoke approach for one charge. Fixed and time-sheeted fees reflect the OGA's actual costs⁴ for the charge proposed for individual consents or services. The bespoke fee reflects actual charges to the OGA from the Competent Authority bodies (the Health and Safety Executive (HSE) and BEIS) and an OGA overhead.
11. The charges and charging methodology proposed in the consultation document are set out in the table overleaf.
12. The consultation asked 10 questions seeking views on the proposal to charge for each service and the methodology to determine the fee for each service.

⁴ These include the annual salary of those OGA staff directly involved (including Earnings-Related National Insurance Contributions and superannuation), subdivided into a daily and a half hourly rate, multiplied by the days or time devoted in assessing such cases. An OGA overhead would also be applied on a pro-rata basis to that member of staff, which is the OGA's payments on building services such as rent.

Service	Charging Methodology
Retention or development area plans approvals (onshore)	Time sheeted
Determination or re-determination of a field boundary	Time sheeted
Onshore metering inspections	Fixed
Offshore metering inspections	Fixed
Inspector attendance at meter flow calibrations	Fixed
Licence extensions and amendments	Fixed
Operator approvals under the Offshore Safety Directive	Bespoke

Table 1: Proposed new OGA charges and charging methodology

Summary of responses received

13. Of the 17 respondents to the consultation, three did not make any comments on Part 1.
14. Of the 14 organisations that responded to this part of the consultation, 11 were generally in favour of the introduction of new direct fees. Of the three respondents who were against the introduction of new fees, only one provided justification and that was to say they believed it just added administrative burden to the OGA which, in their view, would then be passed onto the operators.
15. Of the 14 organisations that responded, four were generally in favour of the proposed time-sheeted methodology. Five expressed concerns about the lack of certainty of costs, a desire for an upper limit or and the difficulty to budget for open-ended costs.
16. Of the 14 organisations that responded, four supported the proposed fixed-fee methodology. The majority made no comments on this approach.
17. Of the 14 organisations that responded, eight made a number of comments on the bespoke fee methodology. Five made no comments on this approach and one confirmed this fee was non-applicable to their business.
18. The following sections summarise the responses to Part 1 of the consultation and set out the OGA's response to the key points raised.

Time-sheeted fees

Q1. Do you have comments on the proposal to charge for retention or development area plan approvals?

19. Nine of the 14 respondents supported the introduction of charges for retention or development area plan approvals. Two respondents opposed the introduction of a new charge for this service because they felt that the new fee would increase overall administration costs for the OGA and the licensee. Three respondents did not provide any comments on the introduction of this proposed charge.

Q2. Do you have comments on the proposed methodology to determine the fee?

20. Four of the 14 respondents expressly supported the proposed time-sheeted charging methodology. Five respondents expressed some concerns about the lack of certainty of costs, a desire for an upper limit and the difficulty to budget for open-ended fees. Six respondents did not provide any specific comments on the proposed charging methodology.

Q3. Do you have comments on the proposal to charge for determination or re-determination of a field boundary?

21. Nine of the 14 respondents supported the introduction of charges for determination or re-determination of a field. Three respondents opposed the introduction of a new charge for this service, two because they felt that this new fee would increase overall administration costs for the OGA and the licensee; and one because they felt that the determination or re-determination of a field boundary is required by the OGA

so, therefore, the cost of completing these should be borne by the regulator. Two respondents did not provide any comments on the introduction of this proposed charge.

Q4. Do you have comments on the proposed methodology to determine the fee?

22. Four of the 14 respondents expressly supported the proposed time-sheeted charging methodology. Five respondents expressed some concerns about the lack of certainty of costs of a time-sheeted approach, a desire for an upper limit for the fee, and their concerns about the difficulty to budget for open-ended costs. Five respondents did not provide any specific comments on the proposed charging methodology.

OGA response to questions 1 to 4 on time-sheeted fees

23. The introduction of a fee for these services is in line with the established principle across regulation and service delivery of 'user pays', where the regulator recovers its costs from those benefitting from its services.
24. The OGA has noted the feedback that open-ended fees and uncertainty make budgeting difficult. The OGA has also noted requests to have more certainty, estimates and upper limits for these charges. A fixed fee will minimise the administrative costs for both the applicant and the OGA. The OGA has reconsidered the proposed charging methodology for this service and the resource and processes involved and have set a fixed fee that reflects the standard amount of time that these approvals take.

25. On the basis of the responses, the OGA has proposed to BEIS to introduce regulations that establish a fixed fee for retention and development plan approvals, and the determination or re-determination of a field boundary. The methodology used will be the same as that for the other fixed fees, as set out in the consultation (see footnote 4), and the charge for these services will be set out in regulations.

Fixed fees

Q5. Do you have comments on the proposal to charge for metering inspections and attendance at meter flow calibrations?

26. Five of the 14 respondents supported the proposal to charge for metering inspections and attendance at meter flow calibrations. Two respondents were opposed to the proposal – one because they felt that this new fee would increase overall administration costs for the OGA and the licensee, and the other because they felt that the metering inspections and attendance at meter flow calibrations are required by the OGA so, therefore, the cost of completing these should be borne by the regulator. Seven respondents did not provide any comments on this proposed charge.

Q6. Do you have comments on the proposed methodology to determine the fee?

27. Four of the 14 respondents actively supported the proposed fixed-fee charging methodology. Ten respondents did not provide any comments on the proposed charging methodology but, of

these, five queried why the charge for onshore inspections was higher than that for offshore inspections.

Q7. Do you have comments on the proposal to charge for licence extensions and amendments?

28. Seven of the 14 respondents supported the proposal to charge for licence extensions. Three were opposed to the introduction of this charge – one because they felt that this new fee would increase overall administration costs for the OGA and the licensee, the second because they felt that licence extensions and amendments are part of OGA's 'cost of doing business' so, therefore, the cost of completing these should be borne by

the regulator, and the third did not give a specific reason for opposing this charge. Four respondents said that they did not have any comments on this proposed charge.

Q8. Do you have comments on the proposed methodology to determine the fee?

29. Four of the 14 respondents supported the proposed fixed-fee charging methodology. Two respondents suggested that a time-sheeted approach would be more appropriate. Eight respondents did not provide any comments on the proposed charging methodology.

OGA response to questions 5 to 8 on fixed fees

30. These services follow a standard process so it has been possible to set a fixed fee for these consents and a time-sheeted approach is not needed. A fixed fee will provide certainty to industry and will minimise the administrative costs for both the applicant and the OGA.
31. The introduction of these fixed fees is in line with the established principle across regulation and service delivery of ‘user pays’, where the regulator recovers its costs from those benefitting from its services.
32. The fee for onshore inspections includes the inspector’s travel (i.e. car hire) and hotel accommodation costs. The cost of helicopter travel and accommodation for offshore inspections is met by the operator directly due to inaccessibility.
33. On the basis of the responses, the OGA has proposed to BEIS to introduce regulations that establish a fixed fee for metering inspections and attendance at meter flow calibrations, licence extensions and licence amendments.

Offshore Safety Directive (OSD) fees

Q9. Do you have comments on the proposal for the OGA to introduce a charge for operator approvals under the Offshore Safety Directive?

34. Seven of the 14 respondents supported the proposed introduction of a charge for OSD approvals. Four respondents did not provide any comments on this question. One respondent said this question was

not applicable to their organisation. Two respondents opposed the introduction of a fee for OSD approvals, one said that as OSD approvals are required by the OGA, the cost of completing these should be borne by the regulator; the other was against the introduction of any additional fees because they felt they would introduce additional administrative costs for OGA that would be passed to the industry.

35. Some respondents queried why the BEIS and the HSE indicative day rates were higher than the OGA rates.

Q10. Do you have comments on the proposed methodology to determine the fee?

36. Of the 14 respondents to this question, one said this question was not applicable to their organisation and five respondents provided no comments on the methodology to calculate the fee for OSD approvals. Eight respondents provided comments on the methodology to calculate the fee for OSD approvals. Their main comments were:
- there should be an upper limit on the charge
 - this approval should be a fixed fee
 - it would be useful to have an ‘estimate’ or for companies to be able to make a ‘fee request’ in advance of the work
 - they wanted to know what amount the OGA would charge for IT
 - they wanted reassurance that all the OGA’s IT and administration costs would be time sheeted.

OGA response to questions 9 and 10 on OSD approvals

37. The introduction of a charge for OSD approvals is in line with the established principle across regulation and service delivery of ‘user pays’, where the regulator recovers its costs from those benefitting from its services. The HSE⁵ and BEIS, the Competent Authority, have different pay rates for the particular specialist staff they employ and different overhead costs.
38. The work needed to complete OSD approvals varies and therefore it is not possible for the OGA to set an upper limit on the charge or set a fixed fee. A bespoke invoicing approach will accurately reflect the costs of processing each operator approval. Applicants will be invoiced for the actual cost incurred by the OGA; this will consist of the charge from the Competent Authority bodies which they will time sheet.
39. At this stage, the OGA’s IT and administrative costs for OSD approvals are considered nugatory and will be covered by the general levy. Therefore, the OGA has proposed to BEIS that they do not include a provision in the regulations to enable the OGA to recover these costs. This may be revisited in the future if the situation changes.
40. On the basis of the responses, the OGA has proposed to BEIS to introduce regulations that allow recovery of the OGA’s costs from HSE and BEIS charges in relation to operator approvals under the OSD.

OGA’s response to comments on Part 1

41. In terms of which services will incur a fee, the OGA will proceed as per the proposals in the consultation document. The OGA has proposed to BEIS that they introduce regulations that establish fees for those services set out in Table 2.
42. In terms of the methodology for charging, the OGA has proposed to BEIS that they introduce regulations to charge for ‘onshore metering inspections’, ‘offshore metering inspections’, ‘inspector attendance at meter flow calibrations’, and ‘licence extensions and amendments’ in line with the fixed fee methodology set out in the consultation document. The methodology for these is set out in Table 2.
43. In relation to the methodology for charging for ‘retention and development area plan approvals’ and ‘determination or re-determination of a field boundary’, following consultation the OGA has proposed to BEIS that they introduce regulations to charge a fixed fee rather than the time-sheeted methodology proposed in the consultation document. The methodology for these charges is set out in Table 2.
44. The OGA has proposed to BEIS that the methodology used to calculate the fixed fees for ‘retention and development area plan approvals’ and ‘determination or re-determination of a field boundary’ is the same as that for the other fixed fees, as set out in the consultation document (see footnote 4), which ensures full cost recovery.

45. The charges for all fixed fees will be set out in regulations. Indicative charges for 2017/18 are set out in Table 2.
46. In terms of the methodology for charging and for ‘operator approvals under the Offshore Safety Directive’, the OGA has proposed to BEIS that they introduce a bespoke methodology, as set out in the consultation document. A bespoke invoicing approach will accurately reflect

the costs of processing each operator approval under the Offshore Safety Directive. Applicants will be invoiced for the actual cost incurred by the OGA; this will consist of the charge from the Competent Authority bodies (BEIS and the HSE), which they will time sheet. As set out above, the OGA has proposed that BEIS do not include a contribution for the OGA’s own IT and other administrative costs.

Service	Charging Methodology	2017/18 Indicative charge*
Retention/development area plans approvals (onshore)	Fixed	£1,068
Determination/re-determination of a field boundary	Fixed	£1,124
Onshore metering inspections	Fixed	£2,994
Offshore metering inspections	Fixed	£2,534
Inspector attendance at meter flow calibrations	Fixed	£1,612
Licence extensions and amendments	Fixed	£1,000
Operator approvals under the Offshore Safety Directive	Bespoke	HSE staff £266 per hr BEIS technical specialist staff £168 per hr BEIS administrative support staff £82 per hr

Table 2: New OGA charges and charging methodology

*These are indicative charges for 2017/18 and will be updated in line with the OGA’s resourcing costs. Any changes to fixed fee charges will be set out in regulations.

Part 2: OGA levy allocation methodology

Introduction and background

47. The consultation sought views on a new methodology to calculate the industry levy for pre-production licences⁶ (as defined in the consultation document) by aligning the treatment of the licence fees and levy. The split of the levy between in-production and pre-production would remain as currently apportioned, with producing licences paying 89% and pre-production licences paying 11% of the levy to reflect the on-going resource input of the OGA to each group. However the consultation proposed that the pre-production levy will have varying levels.
48. Since the introduction of the levy there have been representations arguing that the levy burdens Promote licence holders disproportionately, creating a barrier that deters new entrants seeking to carry out exploration on the UK Continental Shelf (UKCS). The OGA, therefore, consulted on the proposal to introduce new regulations that would set out a new methodology for the calculation of the industry levy for pre-production licences and align the treatment of the levy with that of the licence type.
49. In the consultation document the OGA proposed that licensees that are micro enterprises⁷ (enterprises with fewer than 10 employees and whose annual turnover and/or annual balance sheet total does not exceed €2 million) and that pay a reduced rental on a pre-production licence should qualify for an equivalent percentage reduction⁸ of the pre-production levy. This would remove the conflict between the discounts that Promote and Innovate licence holders in Phases A and B of the Initial Term receive on their licence fees and the full amount they pay on the levy.
50. The proposed methodology means that the standard pre-production levy rate for other pre-production licence holders would need to be raised to cover the deficit created by some licensees paying a lower rate.
51. If a micro enterprise and another larger business jointly hold a relevant licence, the licensees would be liable to the full levy amount as both licensees do not meet the criteria for a discount. If two (or more) licensees that are both (or all) micro enterprises jointly hold a relevant licence, the joint venture licence would qualify for the reduced levy amount.

⁶ Promote Licences, Seaward Exploration Licences, Traditional Licences in the first or second term and, from the 29th Round, Innovate Licences in phases A or B of the Initial Term

⁷ As defined by [EU recommendation 2003/361](#)

Promote Licence 90% reduction, Innovate Licence Phase

⁸ A 90% reduction and Innovate Licence Phase B 80% reduction

Summary of responses received

52. Of the 17 respondents to the consultation, two did not make any comments on Part 2.
53. Of the 15 organisations that responded to this part of the consultation, 13 supported the revised methodology. Of the two respondents that were against, one was opposed to the principle of cross subsidisation, and the other thought that this change would not help to maximise economic recovery.
54. The following sections summarise the responses to Part 2 of the consultation.

Levy methodology

Q11. Do you agree with the proposed change to the levy methodology for pre-production licences? Yes or no

55. Thirteen of the 15 respondents supported the proposed reduction of the pre-production levy. Of these, five held Promote licences and were also micro businesses; three were micro enterprises who did not hold Promote licences; one held a Promote licence but did not comment on their size; two were medium or larger sized businesses who did not hold Promote licences; and two were trade organisations. There were only two respondents that did not support a change to the levy methodology – of these, one did not hold a Promote licence and was a larger company, and the other did not comment on their size or whether they held a Promote licence.

Q12. If you answered 'no' to Q11 please can you specify your reasons?

56. Two respondents did not support a change to the pre-production levy rate. The first was opposed to the principle of cross subsidisation. The second thought reducing the pre-production levy for Promote licensees would not help to maximise economic recovery because they felt it would encourage companies without proper financial backing to win acreage they cannot properly develop as they would lack exploration and production capability.

Definition of a micro enterprise

Q13. Is a micro enterprise an appropriate delineating factor for determining who should attract a lower level of pre-production levy?

57. Nine of the 15 respondents supported the proposed definition of micro enterprise as set out in EU recommendation 2003/361. Of those who supported the proposal, four held Promote licences and were also micro businesses; two were micro enterprises but did not hold Promote licences; and three were a trade organisation or larger companies and did not hold a Promote licence.
58. Five of the 15 respondents disagreed with the proposed definition of micro enterprises. Their main reasons for disagreeing with the proposed definition were:
- discounts to the levy should be based on the size of the operations, number of licences held or net km² of acreage held
 - the EU definition is too generous

- the turnover limit should be in pounds not euros
- they were opposed to cross subsidisation.

59. Of those that disagreed: one held a Promote licence and was a micro enterprise; one was a micro enterprise but did not hold a Promote licence; one held a Promote licence but did not comment on their size; one was a larger company that did not hold a Promote licence; one did not hold a Promote licence or comment on its size; and one did not comment on either.

60. One trade organisation neither agreed nor disagreed with the proposed definition but noted that they understood that others ('predominately subsidiaries of larger companies') felt that the delineating factor should be the size of a company's operations.

Q14. Are you a promote licence holder?

61. Six of the 13 respondents that were companies said they held Promote licences at the time of their response.

62. The two trade organisations marked this question as non applicable.

Q15. What size is your business? Micro (<10), Small (10 – 49), or Medium or larger (50+)

63. Of the 13 companies that responded, eight were micro enterprises and three were medium (or larger) enterprises. Two respondents declined to comment on the size of their business.

64. The two trade organisations marked this question as non applicable.

OGA's response to comments on Part 2

65. The OGA wishes to align the treatment of the levy with that of the licence type – this will remove a contradiction between Promote licence holders' discount rate on their licence rentals and the full amount that they pay on the OGA levy and put in a place a more coherent system by aligning the treatment of the rentals and levy. As set out above, the majority of respondents (87%), including those that would be cross-subsidising the reduced rate, supported the proposed change in methodology for pre-production licences.

66. The OGA experience to date is that companies that hold pre-production licences, and would be in scope for a reduction, have been able to develop the licences. The Promote licence was introduced in 2002 to encourage small and start-up prospectors, often micro enterprises with limited budgets, to evaluate underexplored acreage. It is offered at one tenth of the cost of a traditional licence for the first two years. The current policy contradiction is proving a disincentive to these small and start-up companies under this licensing initiative threatening exploration levels in the UK Continental Shelf (UKCS). The OGA is taking forward the Promote concept, and has replaced Promote licences with Phase A and Phase B of the Innovate licence from the 29th Offshore Licensing Round.

67. As set out above, a number of respondents suggested alternative definitions that the OGA could use to define a micro enterprise including alternative turnover and employee levels.

68. The OGA has considered the responses and, in consultation with HM Treasury, have concluded that using an existing definition of micro enterprises is a preferable approach for simplicity and certainty, and the EU definition is appropriate as it is well understood and includes a headcount and turnover test.
69. Using a different threshold – for example, basing the threshold on the size of operations or number of licences held would not meet the policy objective to remove the barrier to entry for small and start-up companies. The thresholds selected reflect the calls from the industry to reduce the levy for smaller operators.
70. On the basis of the responses to Part two of the consultation, the OGA will proceed as per the proposals in the consultation document and have proposed to BEIS to introduce regulations that introduce the new methodology to calculate the levy and use the definition of micro enterprises as set out in EU recommendation 2003/361.
71. This means that licensees that are micro enterprises (enterprises that employ fewer than 10 employees and whose annual turnover or annual balance sheet total does not exceed €2m per annum) and pay a reduced rental on a pre-production licence will qualify for an equivalent percentage reduction of the pre-production levy. This would align the treatment of the levy with the licence type and remove the conflict between the discounts Promote and Innovate licence holders in Phases A and B of the Initial Term will receive on their licence fees and the rate that they pay on the levy.
72. The new methodology means that the standard pre-production levy rate for other pre-production licence holders will need to be raised to cover the deficit of costs no longer covered by those paying a lower rate.
73. The OGA has proposed to BEIS that the new methodology should come into effect on 1 April 2017 and continue thereafter.

Part 3: Next steps

Introduction of the new fees

74. The OGA has proposed to BEIS that the new charges should be introduced as early as possible in the 2017/18 financial year and continue thereafter. This is subject to approval by government and Parliamentary processes. Any consent requests submitted once the regulations have come into force will be subject to the payment of a fee under the new charging regime.
75. The OGA does not seek to make a profit from these charges but merely to recover costs in carrying out these functions. Any income from these fees will be deducted from the overall amount payable by industry through the levy, so the OGA recovers its costs from the companies benefitting from its services.

Introduction of the new OGA levy methodology

76. The OGA has proposed to BEIS that the new levy methodology should come into effect on 1 April 2017 and continue thereafter. This is subject to approval by Parliamentary process.
77. From the 1 April 2017 the OGA will operate separate financial systems to the sponsorship body (BEIS). For cash flow management purposes the OGA intends to bill levy payers annually in advance from this time.

Part 4: Regulatory Impact Assessment and Equality Impact Assessment

Introduction of the new fees

78. Neither the proposal to introduce new direct fees nor the proposal to change the levy methodology imposes new costs on industry. The overall amount recovered from the industry would remain the same as a result of a reallocation between charges and levies. Therefore any additional revenues received from charges introduced will be deducted from the overall amount payable by industry through the levy.

79. The OGA has a general duty under the Equality Act 2010 in carrying out its functions to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between different groups; and,
- foster good relations between different groups.

80. Further details can be found at: www.equalityhumanrights.com/en/equality-act/equality-act-2010

Annex 1: List of Respondents

Below is a list of organisations that responded to the consultation.

Aimwell Energy Limited
Arenite Petroleum Limited
Burgate Exploration & Production Limited
Carstone Exploration Limited
Cluff Natural Resources Plc
EnQuest Plc
IGas Energy Plc
Ineos Breagh
Nexen Petroleum U.K Limited
Oil and Gas Independents' Association
(OGIA)
Oil and Gas UK (OGUK)
Simwell Resources Limited
Swift Exploration Limited
Total E&P Limited
United Kingdom Onshore Oil and Gas
(UKOOG)
Veritas Geophysical Limited
Xcite Energy Resources Plc

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