
STATUTORY RULES OF NORTHERN IRELAND

2001 No. 16

FAMILY LAW

CHILD SUPPORT

The Child Support (Information, Evidence and Disclosure and Maintenance Arrangements and Jurisdiction) (Amendment) Regulations (Northern Ireland) 2001

Made 23rd January 2001

Coming into operation in accordance with regulation 1(1)

Approved by resolution of the Assembly on 29th May 2001

The Department for Social Development, in exercise of the powers conferred by Articles 7(4), 9(7), 12(1), (2) and (4), 16(1), (1A) and (3), 41(2A), 47, 48(4) and 50 of the Child Support (Northern Ireland) Order 1991(a) and now vested in it(b), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support (Information, Evidence and Disclosure and Maintenance Arrangements and Jurisdiction) (Amendment) Regulations (Northern Ireland) 2001 and shall come into operation as follows—

- (a) regulations 2(5)(c) and (d), (7) and (8) and 3(8) and, for the purposes of those provisions, this regulation, shall come into operation on 31st January 2001; and
- (b) the remainder of these Regulations shall come into operation in relation to a particular case on the day on which paragraphs 12 and 27 of Schedule 3 to the Act, which respectively amend Articles 2(2) and 47 of the Order comes into operation for the purposes of that type of case.

(2) In these Regulations—

“the Order” means the Child Support (Northern Ireland) Order 1991; and

(a) S.I. 1991/2628 (N.I. 23); Article 7(4) was amended by paragraph 7 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and Article 9 was substituted by section 3 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (C. 4 (N.I.)). Article 12(4) was amended by paragraph 10(1) of Schedule 6 to the Social Security (Northern Ireland) Order 1998 and Article 16 was amended by paragraph 3 of Schedule 3 to the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)) and paragraph 14 of Schedule 6 and Schedule 7 to the Social Security (Northern Ireland) Order 1998. Article 41(2A) was inserted by section 21(3) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(b) See Article 8(b) of S.R. 1999 No. 481

“the Act” means the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(a).

Amendment of the Child Support (Information, Evidence and Disclosure) Regulations

2.—(1) The Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992(b) shall be amended in accordance with paragraphs (2) to (11).

(2) For “absent parent” wherever it appears there shall be substituted “non-resident parent” preceded, where appropriate by “a” instead of “an”.

(3) Subject to paragraphs (4)(b)(ii), (5)(a) and (b) and (6)(b)(i), for “assessment” wherever it appears there shall be substituted “calculation”.

(4) In regulation 1(2) (interpretation)—

(a) for the definitions of “Maintenance Assessments and Special Cases Regulations” and “Maintenance Assessment Procedure Regulations” there shall be substituted the following definitions—

“ “Maintenance Calculation Procedure Regulations” means the Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001(c);

“Maintenance Calculations and Special Cases Regulations” means the Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001(d);

(b) in the definition of “relevant person”—

(i) in paragraph (c) for “regulation 20 of the Maintenance Assessments and Special Cases Regulations” there shall be substituted “regulation 8 of the Maintenance Calculations and Special Cases Regulations”, and

(ii) for the words from “a maintenance assessment” to the end there shall be substituted “a maintenance calculation has been applied for, or has been treated as applied for under Article 9(3) of the Order(e), or is or has been in force.”.

(5) In regulation 2(2) (persons under a duty to furnish information or evidence)—

(a) in sub-paragraph (b)(f) for “assessment has been made” in the first place where it appears there shall be substituted “calculation has been made, or has been treated as made”;

(a) 2000 c. 4 (N.I.)

(b) S.R. 1992 No. 339; relevant amending rules are S.R.1995 Nos.162 and 475, S.R. 1996 Nos. 317 and 541, S.R. 1998 No. 8 and S.R. 1999 Nos. 152 and 246 (C. 20)

(c) S.R. 2001 No. 17

(d) S.R. 2001 No. 18

(e) Article 9 is substituted by section 3 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(f) Sub-paragraph (b) was amended by regulation 2(2)(b) of S.R. 1995 No. 475 and Article 7(2)(b) of S.R. 1999 No. 246 (C. 20)

- (b) in sub-paragraphs (c) and (cc)(a) “or the parent with care” shall be omitted and for “assessment has been made” in the first place where it appears there shall be substituted “calculation has been made, or has been treated as made”;
- (c) in sub-paragraph (d) at the beginning there shall be inserted “the appropriate authority or” and for the words “the matter” to the end there shall be substituted “the matters listed in sub-paragraphs (a), (d), (e), (f) and (h) of regulation 3(1)”;
- (d) after sub-paragraph (e) there shall be added the following sub-paragraphs—
 - “(f) a person who acts or has acted as an accountant for the absent parent, including where that person is self-employed, in relation to any business accounts of that parent with respect to the matters listed in sub-paragraphs (e), (f) and (h) of regulation 3(1);
 - (g) a company or partnership for whom the absent parent is providing or has provided services under a contract for services with respect to the matters listed in sub-paragraphs (e) and (f) of regulation 3(1);
 - (h) persons employed in the service of the Crown or otherwise in the discharge of Crown functions—
 - (i) under Articles 13 to 15 of the Road Traffic (Northern Ireland) Order 1981(b) or Part II of the Vehicle Excise and Registration Act 1994(c) with respect to the matter listed in sub-paragraph (e) of regulation 3(1), or
 - (ii) under the Prison Act (Northern Ireland) 1953(d) with respect to the matter listed in sub-paragraph (e) of regulation 3(1).”.
- (6) In regulation 3 (purposes for which information or evidence may be required)—
 - (a) in paragraph (1)—
 - (i) in sub-paragraph (aa)(e) after “maintenance order” there shall be inserted “made on or after the date prescribed for the purposes of Article 7(10)(a) of the Order(f) which has been in force for at least a year from the date it was made”;
 - (ii) in sub-paragraph (f) for “assessed” there shall be substituted “calculated”, and

(a) Sub-paragraph (c) was amended by regulation 2(2)(b) of S.R. 1995 No. 475 and Article 7(2)(b) of S.R. 1999 No. 246 (C. 20) and sub-paragraph (cc) was inserted by regulation 6(2) of S.R. 1995 No. 162 and amended by regulation 2(2)(b) of S.R. 1995 No. 475 and Article 7(2)(b) of S.R. 1999 No. 246 (C. 20)

(b) S.I. 1981/154 (N.I. 1)

(c) 1994 c. 22; Part II was amended by the Finance Act 1995 (c. 4), the Finance Act 1996 (c. 8), the Finance Act 1997 (c. 16), the Finance (No. 2) Act 1997 (c. 58) and the Finance Act 1998 (c. 36)

(d) 1953 c. 18

(e) Sub-paragraph (aa) was inserted by regulation 2(3) of S.R. 1996 No. 317

(f) Paragraph 10 was inserted by Article 12(1) of the Child Support (Northern Ireland) Order 1995 and is amended by section 2 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(iii) after sub-paragraph (k) there shall be added the following sub-paragraph—

“(l) a determination as to who is in receipt of child benefit, payable under Part IX of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) either for a child who may be a relevant other child for the purposes of Schedule 1 to the Order(b), or for the qualifying child where a parent may fall to be treated as a non-resident parent under the Maintenance Calculations and Special Cases Regulations.”;

(b) in paragraph (2)—

(i) in sub-paragraphs (a), (b) and (e) for the words from “an application” to “made” there shall be substituted “the maintenance calculation has been applied for, or has been treated as applied for”;

(ii) in sub-paragraph (g) “or a parent with care,” shall be omitted;

(iii) in sub-paragraph (h)(c) “or parent with care” shall be omitted;

(iv) in sub-paragraph (i) “and a parent with care” shall be omitted;

(v) sub-paragraphs (j), (m), (n), (o), (p) and (s)(d) shall be omitted;

(vi) in sub-paragraph (l) “or living in the same household as the parent with care” and “or the parent with care, as the case may be,” shall be omitted;

(vii) in sub-paragraph (q) “or the person with care” shall be omitted;

(viii) in sub-paragraph (r)(i) “or should be cancelled” shall be omitted.

(7) In regulation 3A(e) (contents of request for information or evidence) at the end there shall be inserted “including details of the offences provided for in Article 16A of the Order(f) for failing to provide, or providing false, information.”.

(8) Regulation 4 (information from an appropriate authority in connection with housing benefit) shall be omitted.

(9) In regulation 5(1)(g) (time within which information or evidence is to be furnished) for “regulations 2(5) and 6(1) of the Maintenance Assessment Procedure Regulations” there shall be substituted “regulation 3(4) of the Maintenance Calculation Procedure Regulations”.

(a) 1992 c. 7; Part IX was amended by paragraph 185 of Schedule 9 to the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)) and section 63 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(b) Part I of Schedule 1 was substituted by section 1(3) of, and Schedule 1 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(c) Sub-paragraph (h) was amended by regulation 2(2) of S.R. 1999 No. 152

(d) Sub-paragraph (p) was amended by regulation 2(2) of S.R. 1998 No. 8 and sub-paragraph (s) was added by regulation 6(3) of S.R. 1995 No. 162

(e) Regulation 3A was inserted by regulation 2(4) of S.R. 1995 No. 475 and substituted by Article 7(4) of S.R. 1999 No. 246 (C. 20)

(f) Article 16A was inserted by section 13 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(g) Regulation 5 was substituted by regulation 2(5) of S.R. 1995 No. 475 and amended by Article 7(5) of S.R. 1999 No. 246 (C. 20)

(10) In regulation 6(a) (continuing duty of persons with care) the words “or should be cancelled” in both places where they appear shall be omitted.

(11) In regulation 9A(b) (disclosure of information to other persons)—

(a) in paragraph (1)—

(i) in sub-paragraph (a)(c) for the words from “why” to “Order”, in the first place where it appears, there shall be substituted “why it has decided not to make a maintenance calculation in response to an application made under Article 7 of the Order(d) or treated as made under Article 9 of the Order”;

(ii) in sub-paragraph (c)(e) “or has been cancelled” shall be omitted;

(iii) in sub-paragraph (d) for “regulation 10 of the Maintenance Assessment Procedure Regulations” there shall be substituted “regulation 23 of the Maintenance Calculation Procedure Regulations”;

(b) in paragraph (2)(c)(ii)(f) for “departure direction” there shall be substituted “variation”.

Amendment of the Child Support (Maintenance Arrangements and Jurisdiction) Regulations

3.—(1) The Child Support (Maintenance Arrangements and Jurisdiction) Regulations (Northern Ireland) 1992(g) shall be amended in accordance with paragraphs (2) to (9).

(2) For “absent parent” wherever it appears there shall be substituted “non-resident parent”, preceded where appropriate by “a” instead of “an”.

(3) For “assessment” wherever it appears there shall be substituted “calculation”.

(4) In regulation 1(2) (interpretation) for the definition of “Maintenance Assessment Procedure Regulations”(h) there shall be substituted the following definition—

““Maintenance Calculation Procedure Regulations” means the Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001”;

(5) In regulation 3 (relationship between maintenance assessments and certain court orders)—

(a) Regulation 6 was amended by Article 7(6) of S.R. 1999 No. 246 (C. 20)

(b) Regulation 9A was inserted by regulation 6(4) of S.R. 1995 No. 162

(c) Sub-paragraph (a) was amended by Article 7(8)(b)(ii) of S.R. 1999 No. 246 (C. 20)

(d) Article 7 was amended by Article 12(1) of the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)), paragraph 7 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 and section 2 of, and paragraph 13 of Schedule 3 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(e) Sub-paragraph (c) was amended by regulation 2(6)(a) of S.R. 1995 No. 475

(f) Sub-paragraph (c) was substituted by regulation 49(3) of S.R. 1996 No. 541 and amended by regulation 2(4) of S.R. 1998 No. 8 and Article 7(8)(c) of S.R. 1999 No. 246 (C. 20)

(g) S.R. 1992 No. 466; relevant amending rules are S.R. 1993 No. 164, S.R. 1995 Nos. 19, 162 and 475 and S.R. 1999 No. 246 (C. 20)

(h) The definition of “Maintenance Assessment Procedure Regulations” was inserted by regulation 7(2) of S.R. 1995 No. 162

(a) in paragraph (2) after “cease to have effect” there shall be added “on the effective date of the maintenance calculation.”;

(b) paragraphs (4) to (7)(a) shall be omitted.

(6) In regulation 5(3)(c)(b) (notifications by the Department) for “regulation 20 of the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992” there shall be substituted “regulation 8 of the Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001.”.

(7) Regulation 7 (cancellation of a maintenance assessment on grounds of lack of jurisdiction) shall be omitted.

(8) After regulation 7 there shall be inserted the following regulation—

“Prescription for the purposes of jurisdiction

7A.—(1) The companies prescribed for the purposes of Article 41(2A)(c) of the Order (non-resident parents not habitually resident in the United Kingdom but employed by prescribed companies) are companies which employ employees to work outside the United Kingdom but make calculations and payment arrangements in relation to the earnings of those employees in the United Kingdom so that a deduction from earnings order may be made under Article 31 of the Order in respect of the earnings of any such employee who is a liable person for the purposes of that Article.

(2) The following bodies are prescribed for the purposes of Article 41(2A)(d) of the Order (non-resident parents not habitually resident in the United Kingdom but employed by a prescribed body)—

- (a) a Health and Social Services trust established by order made under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991(c);
- (b) a Health and Social Services Board established by order made under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(d) (“the 1972 Order”);
- (c) the Central Services Agency established by order made under Article 26 of the 1972 Order;
- (d) a Special Agency established by order made under Article 3 of the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990(e);
- (e) a National Health Service Trust established by order made under section 5 of the National Health Service and Community Care Act

(a) Paragraph (4) was amended by regulation 7(2) of S.R. 1995 No. 475, paragraph (6) was added by regulation 3 of S.R. 1995 No. 19 and paragraph (7) was added by regulation 7(4)(b) of S.R. 1995 No. 162 and amended by regulation 7(2) of S.R. 1995 No. 475

(b) Regulation 5 was amended by Article 13(3)(a) of S.R. 1999 No. 246 (C. 20)

(c) S.I. 1991/194 (N.I. 1); Article 10 was amended by Article 3(8) of the Health and Personal Social Services (Northern Ireland) Order 1994 (S.I. 1994/429 (N.I. 2))

(d) S.I. 1972/1265 (N.I. 14)

(e) S.I. 1990/247 (N.I. 3)

1990(a) (“the 1990 Act”) or under section 12A of the National Health Service (Scotland) Act 1978(b) (“the 1978 Act”);

- (f) a Primary Care Trust established by order made under section 16A of the National Health Service Act 1977(c) (“the 1977 Act”);
- (g) a Health Authority established under section 8 of the 1977 Act(d);
- (h) a Special Health Authority established under section 11 of the 1977 Act(e);
- (i) a local authority, and for this purpose local authority means, in relation to England, a county council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly and in relation to Wales, a county council or county borough council and, in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(f);
- (j) a Health Board constituted under section 2 of the 1978 Act; and
- (k) a Special Health Board constituted under section 2 of the 1978 Act.”.

(9) In regulation 8 (maintenance assessments and maintenance orders made in error) —

(a) in paragraph (1) for sub-paragraph (c)(g) there shall be substituted the following sub-paragraph—

“(c) the Department revises the decision as to the maintenance calculation under Article 18 of the Order(h) and decides that no child support maintenance was payable on the ground that the previous decision was made in error, ”;

(b) in paragraph (2)(i)—

- (i) in sub-paragraph (aa) “is cancelled or” shall be omitted, and
- (ii) “as not having been cancelled or, as the case may be,” shall be omitted.

(a) 1990 c. 19; section 5 was amended by paragraph 69 of Schedule 1 to the Health Authorities Act 1995 (c. 7), paragraph 65(2) of Schedule 2 to the National Health Service (Primary Care) Act 1997 (c. 46) and sections 13(1) and 14 of the Health Act 1999 (c. 8)

(b) 1978 c. 29; section 12A was inserted by section 31 of the National Health Service and Community Care Act 1990 (c. 19) and amended by section 46(1) of the Health Act 1999

(c) 1977 c. 49; section 16A was inserted by section 2(1) of the Health Act 1999. Section 16A was commenced in England on 4th January 2000. Section 16A has not been commenced in Wales

(d) Section 8 was substituted by section 1 of the Health Authorities Act 1995 and amended by paragraph 5 of Schedule 4 to the Health Act 1999

(e) Section 11 was amended by paragraph 3 of Schedule 1 to the Health Authorities Act 1995 and paragraph 6 of Schedule 4 to the Health Act 1999

(f) 1994 c. 39

(g) Sub-paragraph (c) was amended by Article 13(5) of S.R. 1999 No. 246 (C. 20)

(h) Article 18 was substituted by Article 40 of the Social Security (Northern Ireland) Order 1998 and amended by section 8 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(i) Paragraph (2) was amended by, and sub-paragraph (aa) was inserted by, regulation 3(3)(b) of S.R. 1993 No. 164

Transitional provisions and savings

4.—(1) Where in respect of a particular case before the date that these Regulations come into operation with respect to that type of case (“the commencement date”)—

- (a) an application was made and not determined for—
 - (i) a maintenance assessment;
 - (ii) a departure direction, or
 - (iii) a revision or supersession of a decision;
- (b) the Department had begun but not completed a revision or supersession of a decision on its own initiative;
- (c) any time limit provided for in Regulations for making an application for a revision or a departure direction had not expired; or
- (d) any appeal was made but not decided or any time limit for making an appeal had not expired,

regulations 2(2) to (5) (except for sub-paragraphs (c) and (d)), (6), (9) to (11) and 3(2) to (7) and (9) shall not apply for the purposes of—

- (aa) the decision on the application referred to in sub-paragraph (a);
- (bb) the revision or supersession referred to in sub-paragraph (b);
- (cc) the ability to apply for the revision or the departure direction referred to in sub-paragraph (c) and the decision whether to revise or to give a departure direction following any such application;
- (dd) any appeal outstanding or made during the time limit referred to in sub-paragraph (d); or
- (ee) any revision, supersession or appeal or application for a departure direction in relation to a decision, ability to apply or appeal referred to in sub-paragraphs (aa) to (dd).

(2) Where after the commencement date a maintenance assessment falls to be cancelled on grounds of lack of jurisdiction with effect from before the commencement date, regulation 3(7) shall not apply for that purpose.

(3) For the purposes of this regulation—

- (a) “departure direction” and “maintenance assessment” have the same meaning as in Article 2(2) of the Order^(a) before its amendment by the Act;
- (b) “revision or supersession” means a revision or supersession of a decision under Article 18 or 19 of the Order^(b) before its amendment by the Act.

(a) The definition of “departure direction” was inserted by paragraph 2(a) of Schedule 3 to the Child Support (Northern Ireland) Order 1995
(b) Articles 18 and 19 were substituted by Articles 40 and 41 respectively of the Social Security (Northern Ireland) Order 1998

Sealed with the Official Seal of the Department for Social Development
on 23rd January 2001.

(L.S.)

John O'Neill
Senior Officer of the Department
for Social Development

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992 (“the Information Regulations”) and the Child Support (Maintenance Arrangements and Jurisdiction) Regulations (Northern Ireland) 1992 (“the Jurisdiction Regulations”) mainly consequent upon the introduction of the changes to the child support system made by the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (“the Act”).

These Regulations come into operation at different times for different cases according to the dates on which provisions of the Act which are relevant to these Regulations are commenced for different types of cases.

Regulations 2(2), (3), (6)(a)(ii) and (11)(b) and 3(2) and (3) change the terminology in the Information Regulations and the Jurisdiction Regulations.

Regulations 2(4)(a) and (b)(i), (9) and (11)(a)(iii) and 3(4) and (6) amend references in the Information Regulations and the Jurisdiction Regulations to the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992 and the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992 as these have been revoked and replaced respectively by the Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001 and the Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001.

Regulation 2(4)(b)(ii) and (5) amends regulations 1 and 2 of the Information Regulations mainly to adjust the information that can be required so that this is relevant to the changes to the child support system.

Regulation 2(6)(a)(i) and (iii) and (b), (8), (10) and (11)(a)(i) and (ii) makes amendments consequential on the changes to the child support system to regulations 3, 6 and 9A and omits regulation 4 of the Information Regulations. In particular regulation 2(7) amends regulation 3A of the Information Regulations so that notices will include reference to the information offences created by Article 16A of the Child Support (Northern Ireland) Order 1991 (“the Order”).

Regulation 3(5) amends regulation 3 of the Jurisdiction Regulations as references to the “effective date” are now contained in the Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001.

Regulation 3(7) and (8) omits regulation 7 of those Regulations and inserts a new regulation 7A which prescribes the companies and bodies based in the United Kingdom that employ someone not habitually resident, for the purposes of Article 41(2A) of the Order, in the United Kingdom.

Regulation 3(9) amends references in the Jurisdiction Regulations to “cancelling” a maintenance calculation.

Regulation 4 allows the Information Regulations and the Jurisdiction Regulations to apply as they were before they were amended in certain cases for transitional purposes.

Articles 9(7) and 41(2A) of the Order are some of the enabling provisions under which these Regulations are made. Article 9 was substituted by section 3 of the Act and was brought into operation, for the purpose only of making regulations, on 22nd November 2000 by virtue of the Child Support, Pensions and Social Security (2000 Act) (Commencement No. 1) Order (Northern Ireland) 2000 (S.R. 2000 No. 358 (C. 16)). Article 41(2A) was inserted by section 21(3) of the Act and is brought into operation, in so far as not already in operation, on 31st January 2001 by virtue of the Child Support, Pensions and Social Security (2000 Act) (Commencement No. 3) Order (Northern Ireland) 2000 (S.R. 2000 No. 406 (C. 21)).

The impact on business of these Regulations was covered in the Regulatory Impact Assessment for the Act, in accordance with and in consequence of which, these Regulations are made. A copy of that Assessment may be obtained, free of charge, from Social Security Policy and Legislation Division, Castle Buildings, Stormont, Belfast BT4 3SQ.

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