

2003 No. 519

FOOD

**Jam and Similar Products Regulations
(Northern Ireland) 2003**

Made - - - - - *8th December 2003*

Coming into operation *19th January 2004*

The Department of Health, Social Services and Public Safety^(a) in exercise of the powers conferred on it by Articles 15(1)(e), 16(1), 25(1) and (3), 26(3) and 47(2) of the Food Safety (Northern Ireland) Order 1991^(b) and of all other powers enabling it in that behalf, having had regard in accordance with Article 47(3A) of the said Order to relevant advice given by the Food Standards Agency and after consultation both as required by Article 9 of Regulation (EC) No.178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety^(c) and in accordance with Article 47(3) and (3B) of the said Order, hereby makes the following Regulations: –

Citation and commencement

1. These Regulations may be cited as the Jam and Similar Products Regulations (Northern Ireland) 2003 and shall come into operation on 19th January 2004.

Interpretation

2.—(1) In these Regulations –

“the 1996 Regulations” means the Food Labelling Regulations (Northern Ireland) 1996^(d);

“aqueous extract of fruit” means the aqueous extract of fruit which, subject to the losses necessarily occurring in proper manufacturing, contains all the water-soluble constituents of the fruit used;

“catering establishment” means a restaurant, canteen, club, public house, school, hospital or similar establishment (including a vehicle or a fixed or mobile stall) where, in the course of a business, food is prepared for delivery to the ultimate consumer and is ready for consumption without further preparation;

“chestnut” means the fruit of the sweet chestnut tree (*Castanea sativa*);

“Directive 2001/113” means Council Directive 2001/113/EC^(e) relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption;

(a) Formerly the Department of Health and Social Services; *see* S.I. 1999/283 (N.I. 1), Article 3

(b) S.I. 1991/762 (N.I. 7) as amended by S.I. 1996/1633 (N.I. 12) and paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c. 28

(c) O.J. No. L31, 1.2.2002, p. 1

(d) S.R.1996 No.383; the relevant amending Regulations are S.R.1998 No.253, S.R.1999 Nos.143, 244 and 286, S.R.2000 Nos.189 and 303, S.R. 2001 No. 45 and S.R. 2003 No. 159

(e) O.J. No. L10, 12.1.2002, p. 67

“EEA Agreement” means the Agreement on the European Economic Area^(a) signed at Oporto on 2nd May 1992 as adjusted by the Protocol^(b) signed at Brussels on 17th March 1993;

“EEA State” means a State which is a Contracting Party to the EEA Agreement;

“free circulation” has the same meaning as in Article 24 of the Treaty establishing the European Community;

“fruit” means fresh, sound fruit, free from deterioration, containing all of its essential constituents and sufficiently ripe for use, after cleaning, removal of blemishes, topping and tailing, and includes ginger, tomatoes, the edible parts of rhubarb stalks, carrots, sweet potatoes, cucumbers, pumpkins, melons and watermelons;

“fruit pulp” means the edible part of the whole fruit, with or without peel, skin, seeds or pips, as appropriate, which may have been sliced or crushed but which has not been reduced to a purée;

“fruit purée” means the edible part of the whole fruit, with or without peel, skin, seeds or pips, as appropriate, which has been reduced to a purée by being sieved or subjected to a similar process;

“ginger” means the edible root of the ginger plant in a fresh or preserved state and may be dried or preserved in syrup;

“ingredient” has the meaning assigned to it by the 1996 Regulations;

“labelling” has the meaning assigned to it by the 1996 Regulations;

“Member State” means a State which is a member of the European Community;

“the Order” means the Food Safety (Northern Ireland) Order 1991;

“permitted additional ingredient” means an ingredient described in paragraph 1 of Schedule 2 which is used as specified in that paragraph;

“permitted sweetener” means any sweetener in so far as its use is permitted in the specified jam or similar product by the Sweeteners in Food Regulations (Northern Ireland) 1996^(c);

“preparation” includes manufacture and any form of processing or treatment;

“reserved description”, as regards any specified jam or similar product means any description specified in relation to that product in column 1 of Schedule 1 as read with the Notes relating to that Schedule;

“sell” includes offer or expose for sale and includes have in possession for sale;

“specified jam or similar product” means, subject to paragraph (2), any composition of food specified in column 2 of Schedule 1 as read with the Notes relating to that Schedule;

“sugars” means a sugar product defined in the Annex to Council Directive 2001/111/EC relating to certain sugars intended for human consumption^(d), fructose syrup, sugar extracted from fruit or brown sugar or any combination thereof;

“ultimate consumer” means any person who buys otherwise than –

- (a) for the purpose of resale,
- (b) for the purposes of a catering establishment, or
- (c) for the purposes of a manufacturing business;

“vine fruits” means muscatels, raisins, sultanas or currants.

(2) A food described in column 2 of any items 1 to 7 of Schedule 1 is not a specified jam or similar product within the meaning of these Regulations if –

- (a) it contains any additional ingredient other than a permitted additional ingredient;

(a) O.J. No. L1, 3.1.94, p. 1

(b) O.J. No. L1, 3.1.94, p. 571

(c) S.R. 1996 No. 48, as amended by S.R.1997 No. 257, S.R. 1999 No. 216 and S.R. 2002 No. 39

(d) O.J. No. L10, 12.1.2002, p. 53

(b) any raw material, to which paragraphs 2 to 4 of Schedule 2 refer, used in the preparation of that food has been subjected to any treatment other than a treatment authorised by those paragraphs.

(3) Any other expression used both in these Regulations and in Directive 2001/113 has the same meaning in these Regulations as in that Directive.

Scope of Regulations

3.—(1) Subject to paragraphs (2) and (3), these Regulations apply to specified jam or similar products intended for human consumption and ready for delivery to the ultimate consumer or to a catering establishment.

(2) These Regulations do not apply to any specified jam or similar product intended for the manufacture of fine bakery wares, pastries or biscuits.

(3) These Regulations do not apply in respect of any product bearing the description set out at items 8 to 11 of column 1 of Schedule 1 which is –

(a) brought into Northern Ireland from –

(i) an EEA State (other than the United Kingdom), or

(ii) another part of the United Kingdom, in which it was lawfully sold, having been lawfully produced in an EEA State; or

(b) brought into Northern Ireland from –

(i) a Member State (other than the United Kingdom), or

(ii) another part of the United Kingdom, in which it was lawfully sold, having been lawfully produced in a Member State, or in which it was in free circulation and lawfully sold.

Reserved descriptions

4. No person shall sell any food with a label (whether or not attached to or printed on the wrapper or container) which bears, comprises or includes any reserved description or any derivative thereof or any word or description substantially similar thereto unless –

(a) such food is the specified jam or similar product to which the reserved description relates;

(b) such description, derivative or word is used in such a context as to indicate explicitly or by clear implication that the substance to which it relates is only an ingredient of that food; or

(c) such description is used in addition to the name of the food and in accordance with practices used to designate other products which cannot be confused with those defined in column 2 of Schedule 1.

Labelling and description of specified jam products

5.—(1) Without prejudice to the generality of Part II of the 1996 Regulations, no person shall sell any specified jam or similar product unless it is marked or labelled with the following particulars –

(a) the reserved description of the product;

(b) where any specified jam or similar product has a residual sulphur dioxide content of more than 10 milligrams per kilogram, then, in addition to any particular required to be identified in a list of ingredients by the 1996 Regulations, that residual content shall be identified in the list of ingredients according to the percentage by weight of the residue in the product as “sulphur dioxide”.

(2) Without prejudice to the generality of Part II of the 1996 Regulations, no person shall sell any product specified at items 1 to 7 of Schedule 1 unless it is marked or labelled with the following particulars –

(a) in the case –

(i) of a product prepared from a single type of fruit, an indication of that type of fruit;

- (ii) of a product prepared from two types of fruit, an indication of those types of fruit in descending order of the weight of the fruit pulp, fruit purée, fruit juice, fruit peel and aqueous extract of fruit used in the preparation of the product; and
 - (iii) of a product prepared from three or more types of fruit, an indication of those types of fruit in descending order of the weight of the fruit pulp, fruit purée, fruit juice, fruit peel and aqueous extract of fruit used in the preparation of the product or alternatively the words “mixed fruit” or similar wording or the number of types of fruit used in the preparation of the product;
- (b) an indication of the proportion of fruit used in the preparation of the product in the form “prepared with Xg of fruit per 100 g”, there being inserted in place of “X” the quantity in grams of fruit from which the fruit pulp, fruit purée, fruit juice, fruit peel and aqueous extract of fruit used for every hundred grams of the finished product are derived; and
- (c) except where a nutritional claim as regards sugar content is made and the product is marked or labelled, as regards sugar content, with the prescribed nutrition labelling as set out in Schedule 7 to the 1996 Regulations, an indication of the total sugar content in the form “total sugar content: Yg per 100 g”, there being inserted in place of “Y” the content in grams of soluble solids in each hundred grams of the product, determined by refractometer at 20°C, the content shown being accurate to ± 3 refractometric degrees.

(3) The particulars with which the product is required to be marked or labelled in accordance with paragraph 2(b) and (c) shall appear in the labelling of the food in the same field of vision as the name of the product and in clearly visible characters.

Manner of marking or labelling

6. Regulations 35, 36(1) and (5) and 38 of the 1996 Regulations (which relate to the manner of marking or labelling of food) shall apply to the particulars with which a specified jam or similar product is required to be marked or labelled by regulation 5 as if they were particulars with which a food is required to be marked or labelled by the 1996 Regulations.

Penalties and enforcement

7.—(1) Any person who contravenes regulation 4 or 5 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Each district council shall enforce and execute these Regulations within its district.

Defence in relation to exports

8. In any proceedings for an offence under these Regulations it shall be a defence for the person accused to prove –

- (a) that the food in respect of which the offence is alleged to have been committed was intended for export to a country which has legislation analogous to these Regulations and that the food complies with that legislation; and
- (b) in the case of export to an EEA State, that the legislation complies with the provisions of Directive 2001/113/EC of the European Parliament and the Council relating to fruit, jams, jellies and marmalades and sweetened chestnut purée intended for human consumption(a).

Application of various provisions of the Order

9. The following provisions of the Order shall apply for the purposes of these Regulations and any reference in those provisions to the Order shall be construed for the purposes of these Regulations as a reference to these Regulations –

- (a) Articles 2(4) and 3 (extended meaning of sale etc.);
- (b) Article 4 (presumptions that food intended for human consumption);
- (c) Article 19 (offences due to fault of another person);

(a) O.J. No. L10, 12.1.2002, p. 67, as adopted by the EEA Joint Committee Decision No. 99/2002 (O.J. No. L298, 31.10.2002, p. 10)

- (d) Article 20 (defence of due diligence) as it applies for the purposes of Article 7, 13 or 14 of the Order;
- (e) Article 21 (defence of publication in the course of a business);
- (f) Article 30(8) (which relates to documentary evidence);
- (g) Article 34 (obstruction, etc., of officers);
- (h) Article 36 (punishment of offences) in so far as it relates to offences under Article 34(1) and (2) as applied by paragraph (g).

Amendments and revocations

10.—(1) The Jam and Similar Products Regulations (Northern Ireland) 1982(a) and the Jam and Similar Products (Amendment) Regulations (Northern Ireland) 1990(b) are hereby revoked.

(2) The following entries relating to the Jam and Similar Products Regulations (Northern Ireland) 1982 shall be omitted –

- (a) in the Food (Revision of Penalties and Mode of Trial) Regulations (Northern Ireland) 1987(c), in Schedule 1;
- (b) in the Food Safety (Northern Ireland) Order 1991 (Consequential Modifications) Order (Northern Ireland) 1991(d), in Schedule 1, Part I and in Schedules 3 and 5;
- (c) in the Food Safety (Exports) Regulations (Northern Ireland) 1991(e), in the Schedule;
- (d) in the Food (Forces Exemptions) (Revocations) Regulations (Northern Ireland) 1992(f), in the Schedule;
- (e) in the 1996 Regulations, in Schedule 9.

(3) In the Miscellaneous Food Additives Regulations (Northern Ireland) 1996(g), in Schedules 2, 3 and 7, for “Directive 79/693/EEC” in each place where it appears there is substituted “Directive 2001/113/EC relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption”.

Transitional provision

11. In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove that –

- (a) the food concerned was marked or labelled before 12th July 2004; and
- (b) the matters constituting the alleged offence would not have constituted an offence under the Jam and Similar Products Regulations (Northern Ireland) 1982 as they stood immediately before the date of coming into operation of these Regulations.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 8th December 2003.

(L.S.)

Denis McMahon

A Senior Officer of the Department of Health, Social Services and Public Safety

(a) S.R. 1982 No. 105
(b) S.R. 1990 No. 388
(c) S.R. 1987 No. 38
(d) S.R. 1991 No. 203
(e) S.R. 1991 No. 344
(f) S.R. 1992 No. 464
(g) S.R. 1996 No. 50

SCHEDULE 1

Regulation 2(1)

COMPOSITION

Column 1 <i>Reserved descriptions</i>	Column 2 <i>Specified jam or similar product</i>
1. Jam	<p>A mixture, brought to a suitable gelled consistency, of sugars, the pulp or purée or both of one or more kinds of fruit and water, such that the quantity of fruit pulp or fruit purée or both used for every 1000 grams of the finished product is not less than –</p> <ul style="list-style-type: none"> (i) 250 grams in the case of redcurrants, blackcurrants, rosehips, rowanberries, sea buckthorns or quinces, (ii) 150 grams in the case of ginger, (iii) 160 grams in the case of cashew apples, (iv) 60 grams in the case of passion fruit, (v) 350 grams in the case of any other fruit.
2. Extra Jam	<p>A mixture, brought to a suitable gelled consistency, of –</p> <ul style="list-style-type: none"> – sugars, the unconcentrated pulp of one or more kinds of fruit and water, or – in the case of rosehip extra jam or seedless raspberry, blackberry, blackcurrant, blueberry or redcurrant extra jam, of sugars, the unconcentrated purée of that fruit, or a mixture of the unconcentrated pulp and purée of that fruit, and water, <p>but the following fruits may not be used mixed with others in the manufacture of extra jam: apples, pears, clingstone plums, melons, watermelons, grapes, pumpkins, cucumbers and tomatoes.</p> <p>The quantity of fruit pulp or fruit purée or both used for every 1000 grams of the finished product being not less than –</p> <ul style="list-style-type: none"> (i) 350 grams in the case of redcurrants, blackcurrants, rosehips, rowanberries, sea buckthorns or quinces, (ii) 250 grams in the case of ginger, (iii) 230 grams in the case of cashew apples, (iv) 80 grams in the case of passion fruit, (v) 450 grams in the case of any other fruit.
3. Jelly	<p>An appropriately gelled mixture of sugars and fruit juice or aqueous extract of fruit or both such that the quantity of fruit juice or aqueous extract of fruit or both used for every 1000 grams of the finished product is not less than –</p> <ul style="list-style-type: none"> (i) 250 grams in the case of redcurrants, blackcurrants, rosehips, rowanberries, sea buckthorns or quinces, (ii) 150 grams in the case of ginger, (iii) 160 grams in the case of cashew apples, (iv) 60 grams in the case of passion fruit, (v) 350 grams in the case of any other fruit. <p>The quantities in paragraphs (i) to (v) are calculated after deduction of the weight of water used in preparing the aqueous extracts.</p>
4. Extra Jelly	<p>An appropriately gelled mixture of sugars and fruit juice or aqueous extract of fruit, or both, but the following fruits may not be used mixed with others in the manufacture of extra jelly: apples, pears, clingstone plums, melons, watermelons, grapes, pumpkins, cucumbers and tomatoes.</p>

Column 1 <i>Reserved descriptions</i>	Column 2 <i>Specified jam or similar product</i>
	<p>The quantity of fruit juice and aqueous extract of fruit used for every kilogram of the finished product being not less than –</p> <ul style="list-style-type: none"> (i) 350 grams in the case of redcurrants, blackcurrants, rosehips, rowanberries, sea buckthorns or quinces, (ii) 250 grams in the case of ginger, (iii) 230 grams in the case of cashew apples, (iv) 80 grams for passion fruit, (v) 450 grams in the case of any other fruit. <p>The quantities in paragraphs (i) to (v) are calculated after deduction of the weight of water used in preparing the aqueous extracts.</p>
5. Jelly marmalade	The composition of marmalade, as described in item 6 but where the product contains no insoluble matter except possibly for small quantities of finely sliced peel.
6. Marmalade	A mixture, brought to a suitable gelled consistency, of water, sugars and fruit pulp, fruit purée, fruit juice, fruit peel or aqueous extract of fruit or any combination thereof, in every case obtained from citrus fruit, such that the quantity of citrus fruit used for every 1000 grams of the finished product is not less than 200 grams, of which not less than 75 grams is obtained from the endocarp.
7. Sweetened chestnut purée	A mixture brought to a suitable consistency, of water, sugar and puréed chestnuts, such that the quantity of puréed chestnuts used for every 1000 grams of the finished product is not less than 380 grams.
8. X curd	<p>An emulsion of edible fat or oil (or both), sugar, whole egg or egg yolk (or both), and any combination of fruit, fruit pulp, fruit purée, fruit juice, aqueous extract of fruit or essential oils of fruit, with or without other edible ingredients, such that –</p> <ul style="list-style-type: none"> (a) the quantity of fat and oil used for every 1000 grams of the finished product is not less than 40 grams; (b) the quantity of whole and egg yolk used for every 1000 grams of the finished product is not less than 6.5 grams of egg yolk solids; and (c) the quantity of fruit, fruit pulp, fruit purée, fruit juice, aqueous extract of fruit, and essential oil of fruit is sufficient to characterise the finished product.
9. Lemon cheese	A food conforming to the description in item 8 appropriate for lemon curd.
10. Y flavour curd	<p>An emulsion of edible fat or oil (or both), sugar, whole egg or egg yolk (or both), and flavouring material with or without other edible ingredients, such that –</p> <ul style="list-style-type: none"> (a) the quantity of fat and oil used for every 1000 grams of the finished product is not less than 40 grams; (b) the quantity of whole egg and egg yolk used is such that every 1000 grams of the finished product contains not less than 6.5 grams of egg yolk solids; and (c) the quantity of flavouring material used is sufficient to characterise the product.
11. Mincemeat	A mixture of sweetening agents, vine fruits, citrus peel, suet or equivalent fat and vinegar or acetic acid, with or without other edible ingredients, such that –

<i>Column 1</i> <i>Reserved descriptions</i>	<i>Column 2</i> <i>Specified jam or similar product</i>
	<p>(a) the quantity of vine fruits and citrus peel used for every 1000 grams of the finished product is not less than 300 grams, of which not less than 200 grams consists of vine fruits; and</p> <p>(b) the quantity of suet or equivalent fat used for every 1000 grams of the finished product is not less than 25 grams.</p> <p>For the purposes of this entry, “sweetening agents” means –</p> <p>(a) any sugar product defined in the Annex to Directive 2001/111/EC(a) relating to certain sugars intended for human consumption;</p> <p>(b) brown sugar;</p> <p>(c) cane molasses;</p> <p>(d) honey, as defined in Council Directive 2001/110/EC(b) relating to honey.</p>

Notes

1. In the case of a product prepared from a mixture of types of fruit, column 2 shall be read as if the minimum quantities specified for the various types of fruit mentioned or referred to therein were reduced in proportion to the relative quantities of the types of fruit used.
2. The products described in this Schedule must have a soluble dry matter content of 60% or more as determined by refractometer at 20°C except for –
 - (a) those products in respect of which sugars have been wholly or partially replaced by permitted sweeteners;
 - (b) those products labelled “reduced sugar” which may have a soluble dry matter content of not less than 25% and not more than 50%;
 - (c) those products described in items 8 to 11 which must have a soluble dry matter content of 65% or more.
3. Column 1 shall be read as if for “X” in item 8 there were substituted –
 - (a) the name of a particular type of fruit; or
 - (b) “mixed fruit”; or
 - (c) “fruit” preceded by an indication of the number of types of fruit used in the preparation of the food described in column 2 of the item.
4. Column 1 shall be read as if for “Y” in item 10 there were substituted –
 - (a) the name of a particular type of fruit; or
 - (b) “mixed fruit”.

(a) O.J. No. L10, 12.1.2002, p. 53

(b) O.J. No. L10, 12.1.2002, p. 47

PERMITTED ADDITIONAL INGREDIENTS AND AUTHORISED TREATMENTS FOR
PRODUCTS DESCRIBED IN ITEMS 1 TO 7 OF SCHEDULE 1

1. The following additional ingredients may be used, to the extent stated below:
 - (a) honey as defined in Council Directive 2001/110/EC of 20 December 2001 relating to honey^(a): in all products as a total or partial substitute for sugars;
 - (b) fruit juice: only in jam;
 - (c) citrus fruit juice: in products obtained from other types of fruit: only in jam, extra jam, jelly and extra jelly;
 - (d) red fruit juices: only in jam and extra jam manufactured from rosehips, strawberries, raspberries, gooseberries, redcurrants, plums and rhubarb;
 - (e) red beetroot juice: only in jam and jelly manufactured from strawberries, raspberries, gooseberries, redcurrants and plums;
 - (f) essential oils of citrus fruits: only in marmalade and jelly marmalade;
 - (g) edible oils and fats as anti-foaming agents: in all products;
 - (h) liquid pectin: in all products;
 - (i) citrus peel: in jam, extra jam, jelly and extra jelly;
 - (j) leaves of *Pelargonium odoratissimum*: in jam, extra jam, jelly and extra jelly, where they are made from quince;
 - (k) spirits, wine and liqueur wine, nuts, aromatic herbs, spices, vanilla and vanilla extracts: in all products;
 - (l) vanilline: in all products;
 - (m) any substance permitted pursuant to Council Directive 89/107/EEC on the approximation of the laws of Member States concerning food additives authorised for use in foodstuffs intended for human consumption^(b).
2. Fruit, fruit pulp, fruit purée and aqueous extract of fruit may be treated in the following ways:
 - (a) heated, chilled or frozen;
 - (b) freeze-dried;
 - (c) concentrated, to the extent that is technically possible;
 - (d) except in relation to extra jam or extra jelly, sulphited, that is to say sulphur dioxide (E220) or its salts (E221, E222, E223, E224, E226 and E227) may be used as an aid to manufacture provided that the maximum sulphur-dioxide content laid down in Directive 95/2/EC^(c) is not exceeded.
3. Apricots and plums to be used in the manufacture of jam may also be treated by other drying processes apart from freeze-drying.
4. Citrus peel may additionally be preserved in brine.

(a) O.J. No. L10, 12.1.2002, p. 47

(b) O.J. No. L40, 11.2.89, p. 27

(c) O.J. No. L61, 18.3.95, p. 1

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations implement Council Directive 2001/113/EC concerning fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption (O.J. No. L10, 12.1.2002, p. 67), and also contain national measures. They revoke and replace the Jam and Similar Products Regulations (Northern Ireland) 1982, as amended.

The Regulations –

- (a) prescribe definitions and reserved descriptions for certain specified jam products (*regulation 2 and Schedules 1 and 2*). The products described in the entries numbered 1 to 7 of Schedule 1 are those in relation to which the Directive applies whilst those specified in the entries numbered 8 to 11 in Schedule 1 are included as national measures;
- (b) provide for the circumstances in which the Regulations apply (*regulation 3*);
- (c) restrict the use of reserved descriptions to the specified jam and similar products to which they relate (*regulation 4*);
- (d) prescribe labelling requirements for such products (*regulation 5*);
- (e) make provision as to the manner of marking and labelling specified jam and similar products (*regulation 6*);
- (f) specify a penalty for contraventions of the Regulations, the enforcement authority, and, in accordance with Articles 2 and 3 of Council Directive 89/397/EEC on the official control of foodstuffs (O.J. No. L186, 30.6.89, p. 23) and the European Economic Area Agreement, a defence in relation to exports (*regulations 7 and 8*);
- (g) apply various provisions of the Food Safety (Northern Ireland) Order 1991 (*regulation 9*);
- (h) revoke the previous Regulations and make consequential amendments and a transitional provision (*regulations 10 and 11*).

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