

Draft Regulations

Draft Regulation

Act respecting collective agreement decrees
(chapter D-2)

General Regulation to govern the regulations of a parity committee

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the General Regulation to govern the regulations of a parity committee, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation applies to all parity committees constituted under the Act respecting collective agreement decrees (chapter D-2). It standardizes the normative content of certain regulations of parity committees, determines the minimum content of the regulations and sets out general rules supplementary to those made by those committees.

More specifically, the draft Regulation specifies the mission of parity committees and the values they must respect in all their actions.

As regards internal management, the draft Regulation mainly contains provisions governing the composition, appointment and replacement of the members of a parity committee, and the governance and transparency of the committee. It also sets out the minimum rules of ethics and conduct applicable to the members.

The draft Regulation also governs the content of certain regulations that a parity committee may make under the second paragraph of section 22 of the Act respecting collective agreement decrees. In that respect, it specifies in particular the information contained in a registration system or a register and in a monthly report. It also governs the terms and conditions applicable to attendance allowances and the actual travel expenses paid to the members.

In addition, it provides for transitional provisions in order to grant a 1-year period to parity committees to implement certain obligations respecting governance and transparency.

The regulatory impact analysis shows that the amendments have no impact on employees and professional employers.

Further information on the draft Regulation may be obtained by contacting Louis-Philippe Roussel, Direction des politiques du travail, Ministère du Travail, de l'Emploi et de la Solidarité sociale, 425, rue Jacques-Parizeau, 5^e étage, Québec (Québec) G1R 4Z1; telephone: 581 628-8934, extension 80149, or 1 888-628-8934, extension 80149 (toll free); email: louis-philippe.roussel@mtess.gouv.qc.ca.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to the Minister of Labour, Employment and Social Solidarity, 425, rue Jacques-Parizeau, 4^e étage, Québec (Québec) G1R 4Z1; email: ministre@mtess.gouv.qc.ca.

JEAN BOULET

Minister of Labour, Employment and Social Solidarity

General Regulation to govern the regulations of a parity committee

Act respecting collective agreement decrees
(chapter D-2, s. 20)

PART I SCOPE

1. This Regulation applies to all parity committees constituted under the Act respecting collective agreement decrees (chapter D-2).

It standardizes the normative content of certain regulations of parity committees, determines the minimum content of the regulations and sets out general rules supplementary to those made by the committees.

2. Any provision of a regulation of a parity committee that is inconsistent with this Regulation is inoperative.

PART II GENERAL

3. The mission of a parity committee is to oversee the application of a decree made under section 2 of the Act and ascertain compliance with the decree. A parity

committee must also advise and inform the employees and professional employers of the conditions of employment determined in the decree.

4. A parity committee must respect the following values in all its actions:

(1) Equity: equity must serve as the basis of the interventions of the parity committee in order to ensure that the rights of the employees and employers are respected. It rests on the fair assessment of what is owed to each person;

(2) Integrity: a parity committee must act in an ethical, honest and transparent manner;

(3) Respect: the parity committee and its employees must adopt a respectful and non-discriminatory attitude towards every person.

PART III

REGULATION FOR THE INTERNAL MANAGEMENT OF A PARITY COMMITTEE

5. In accordance with section 18 of the Act, a parity committee must adopt a regulation for its internal management and the exercise of the rights conferred on it by law.

DIVISION I

NAME AND HEAD OFFICE OF THE PARITY COMMITTEE

6. A regulation for internal management must indicate the name and head office of the parity committee and the title of the decree that the committee is responsible for overseeing and ascertaining observance.

The head office must be situated in a municipality included in the territorial jurisdiction provided for in the decree.

DIVISION II

COMPOSITION AND APPOINTMENT OF THE MEMBERS OF THE PARITY COMMITTEE

7. The parity committee is composed of members appointed by the union and employer parties or, where applicable, by each party of the group constituting the contracting party. The members are appointed in equal numbers of union and employer parties and all contracting parties are entitled to appoint at least 1 member.

The committee is also composed of members added by the Minister in accordance with section 17 of the Act, where applicable.

8. Gender parity must be favoured where a contracting party or the Minister appoints a number of members.

9. Officers and persons in the employ of a contracting party or an association that is a member of a contracting party and any other person subject to the decree may be appointed members of the committee, substitutes or replacements.

10. The following persons are disqualified for office as members of the parity committee:

(1) minors and persons of full age under tutorship or curatorship;

(2) undischarged bankrupts;

(3) persons prohibited by the court from holding the office of director of a legal person in accordance with article 329 of the Civil Code, on the terms and conditions set out in article 330 of the Code;

(4) persons convicted of an offence provided for in section 37.1 of the Act or, when it relates to the offence, in section 39 of the Act.

For the purposes of subparagraphs 3 and 4 of the first paragraph, the disqualification lasts for a period of 5 years as of the latest act charged, except if the person has obtained a pardon or the suspension of the criminal record, as the case may be.

Decisions made by the board of directors cannot be invalidated for the sole reason that one of its members is disqualified if the disqualification was unknown to the committee.

11. The contracting party or the Minister must replace the member the contracting party or the Minister has appointed on being informed in writing by the board of directors that the member is no longer qualified for the position of member, by reason in particular of grounds for disqualification or non-compliance of ethical and professional obligations.

The board or the Minister may exercise the recourse provided for in article 329 of the Civil Code, where applicable.

12. The regulation for internal management must include

(1) the number of members composing the parity committee and the number of members that each contracting party is entitled to appoint, where applicable, in order to obtain an equal distribution of members;

(2) the possibility of appointing a substitute for each member of the committee if the member is absent or unable to act and of defining the grounds for an absence or inability to act;

(3) the cases, including the non-compliance of the ethical and professional obligations, conditions and time limit for replacing members; and

(4) the procedure for sending the notice of appointment of the members, substitutes and replacements.

13. The rules on the appointment, renewal or replacement of the members of the parity committee set out in the regulation for internal management must allow the acquisition and transfer of knowledge.

DIVISION III

BOARD OF DIRECTORS OF THE PARITY COMMITTEE

§1. Composition and appointment of the members of the board of directors of the parity committee

14. The board of directors is composed of all the members of the parity committee. It is directed by a chair or co-chairs, as the case may be.

The chair or co-chairs are elected by the members of the board from among themselves for a term of not more than 4 years, which is renewable twice, consecutively or not.

Their term ends as soon as they cease to be members of the board or in the cases and on the conditions provided for in the regulation for internal management.

15. The regulation for internal management must provide for the election of a chair and vice-chair or co-chairs and a description of their respective functions.

The regulation for internal management must also set out rules on the chairing of board meetings, in particular if the chair and vice-chair or co-chairs, as the case may be, are absent or unable to act.

16. The members of the board of directors are appointed for a term of 4 years, which may be renewed.

At the end of their term, they remain in office until they are replaced or re-appointed.

§2. Functions of the board of directors of the parity committee

17. The board of directors exercises the functions, rights and powers conferred on the parity committee by the Act and those provided for in this Regulation and the regulation for internal management.

The functions of the board of directors include, in particular,

(1) defining the orientations for applying, overseeing and ascertaining compliance with the decree;

(2) making the committee's regulations;

(3) authorizing the committee's expenses and contracts;

(4) approving the committee's staffing plan, annual report, budgetary estimates, internal audit report and financial statements;

(5) adopting the committee's strategic orientations and governance rules, in particular a strategic plan, a statement of services, a code of ethics and conduct applicable to board members and another applicable to the employees of the committee, both including provisions to prevent conflicts of interest, a policy for processing complaints and a policy for the review of decisions, in conformity with this Regulation, as the case may be;

(6) establishing the expertise and experience profiles of the committee members;

(7) appointing a general manager, a secretary, inspectors and other committee employees, and determining their attributions and remuneration. The board may delegate to the general manager the hiring of other committee employees after having established a staffing plan;

(8) retaining the professional services necessary for the management of the affairs of the committee, where required;

(9) designating or requiring the professional services of an ethics and conduct officer for the board members and the committee's employees. That person must have completed appropriate training in ethics and conduct;

(10) determining the delegations of authority, including those related to financial commitments; and

(11) sending the information and documents required by section 23 or 23.1 of the Act, where required.

§3. Meetings of the board of directors

18. The regulation for internal management must include

(1) the content of a convocation to a meeting of the board of directors or one of its committees or sub-committees, including the place of the meeting or the directives allowing to participate in the meeting using a technological means, where applicable;

(2) the terms and conditions concerning the convocation to the annual meeting of the board, the inclusion of subjects on the agenda and the documents to be sent to the members;

(3) the terms and conditions concerning the convocation, the inclusion of subjects on the agenda, the documents to be sent to the members and the frequency of the regular meetings, which may not be less than 6 per year;

(4) the number of members required for the convocation of a special meeting of the board and the terms and conditions concerning the convocation and the inclusion of subjects on the agenda of that meeting;

(5) the possibility for the board members to waive a notice of convocation or derogate from the formalities and time limits for the convocation;

(6) the number of members required for each of the union and employer parties to allow the board to validly deliberate and make decisions; and

(7) the cases in which and the conditions on which the members may participate in a board meeting using technological means allowing all participants to immediately communicate with each other.

19. The decisions of the board of directors are taken by a majority vote of the members present. The vote may be taken by a show of hands, given verbally or, on a member's request, by secret ballot, as the case may be.

Subject to the first paragraph, the regulation for internal management sets out the rules on the decision to be taken by the board, in particular the decisions to be applied in the case of a tie-vote.

20. Every member present is required to vote or express their opinion for the purpose of making a decision, except in the case of a conflict of interest that the

member is bound to declare to the chair or co-chairs of the board of directors or in the other cases of impediment provided for in the regulation.

The chair of the meeting must decide whether the member is in a situation of conflict of interest and, where applicable, direct the member to abstain from voting on the issue declared and withdraw from the meeting for the duration of the discussion or vote on the issue.

The withdrawal of the member and the general reasons for the withdrawal are entered in the minutes of the meeting.

21. The vote of a member given in contravention of this Regulation, the regulation for internal management or the code of ethics and conduct is not taken into consideration.

22. A resolution signed by all the members of the board of directors has the same value and the same effect than if it had been passed during a board meeting duly convened and regularly constituted. Such a decision is entered in the minutes of the meeting that follows the date on which the resolution is signed.

23. The minutes of a meeting of the board of directors states the discussions and decisions made at the meeting. They are signed by the chair of the meeting and the secretary of the board.

In the absence of an indication to the contrary in the minutes, a decision made by the board is considered to have been adopted unanimously by the members present.

DIVISION IV FUNCTIONS OF THE PARITY COMMITTEE AND OF CERTAIN EMPLOYEES OF THE COMMITTEE

24. The parity committee sees to the implementation and application of the decree. It exercises the functions provided for in the Act and the decree in compliance with the applicable rules of law.

25. The general manager and the other employees of the parity committee exercise the functions and powers assigned to them by the regulation for internal management and, if applicable, by this Regulation.

26. The general manager is an employee of the parity committee and may be hired by more than one committee. The general manager may also fill the position of secretary.

27. The general manager manages the affairs of the parity committee.

As such, the general manager manages the decree, including the social security benefits plans and the funds of the committee, in compliance with the applicable rules of law, the orientations of the board of directors and sound and prudent management practices.

The general manager also sees to the execution of the decisions of the board of directors and the application of various documents adopted by the board.

28. The general manager or the person designated by the general manager must immediately publish the following information and documents on the website of the parity committee:

(1) the name of each member of the committee and the name of the contracting party that appointed the member or the entity that the member represents;

(2) an updated administrative codification of the regulations made by the committee pursuant to the Act;

(3) the documents adopted by the committee under subparagraph 5 of the second paragraph of section 17;

(4) every draft decree and regulation concerning the committee published in the *Gazette officielle du Québec*, and the accompanying notice of publication;

(5) the most recent version of the committee's annual report, annual budgetary estimates and audited financial statements, including the summary, after their anonymization.

The information and documents must be accurate and up to date.

29. The general manager declares to the chair or co-chairs of the board of directors any contravention to the ethical and professional obligations committed by a board member, and a contravention committed by the chair or one of the co-chairs must be declared to the board of directors.

30. The general manager is responsible for the relations of the parity committee with the Government, more specifically with the Minister or the person designated by the Minister.

To that end, the general manager must provide to the Minister or the person designated by the Minister, within the prescribed period, the information and documents required by section 23 or 23.1 of the Act.

This section does not limit the right of the Minister or of the person designated by the Minister to require information and documents from another person.

31. The function of the ethics and conduct officer is to raise awareness, train and advise the members of the board of directors and the employees of the parity committee and to answer their questions in those fields.

DIVISION V

CODE OF ETHICS AND CONDUCT OF THE MEMBERS OF THE BOARD OF DIRECTORS OF THE PARITY COMMITTEE

32. The code of ethics and conduct must comply with the principles and rules set out in this Division and in articles 321 to 325 of the Civil Code. In case of inconsistency, the more stringent principles and rules apply.

The Code must also include provisions for preserving the integrity and impartiality of the parity committee, favouring transparency within the parity committee and fostering accountability of its members, while taking into account the particularity of the composition of the board of directors.

33. As director of a legal person, a member must act in compliance with the applicable rules of law, with honesty, loyalty, prudence, diligence, efficiency, application and fairness.

34. A member must fulfill the duties and obligations according to the requirements of good faith.

35. A member is bound to confidentiality regarding any matter brought to the member's knowledge in the performance of the duties and must, at all times, preserve the confidentiality of the information received and protect that information. A member may not give to a third person the documents obtained in or in connection with the carrying out of the duties of office. A member may not use for the member's own benefit or for the benefit of a third person the information and documents obtained in or in connection with the carrying out of the duties of office.

This section does not prevent a member from consulting or reporting to the contracting party that appointed the member or the entity that the member represents, except where the information is confidential by law or where the board of directors requires that confidentiality be maintained.

36. A member must act in the interest of the parity committee and avoid placing himself or herself in any situation where the member's interest or that of a related person would be in conflict with the member's obligations as a director.

A conflict of interest means, without limiting the general scope of the expression, a real, apparent or potential situation in which a member would be likely to favour, directly or indirectly, the member's interest or the interest of a related person, or directly the interest of the contracting party that appointed the member or the entity that the member represents to the detriment of those of another person.

A "related person" means the spouse, that is the person who is married to or in a civil union with the member or has been cohabiting with the member for more than 1 year, and the child, brother, sister, father, mother or grandparents of a member or the member's spouse.

37. The following situations constitute conflicts of interest:

(1) a member or a related person owns directly or indirectly an interest in an enterprise or a body that deals or is on the verge of dealing with the parity committee;

(2) a member uses the power of decision or influence to obtain an undue advantage for a third person;

(3) a member accepts an advantage from any person when the member knows or should know that the advantage has been granted to the member for the purpose of influencing the exercise of the member's functions;

(4) a member, a person related to the member or the contracting party that appointed the member or the entity that the member represents has a litigious claim against the committee.

38. A member must declare to the board of directors, using a declaration, the direct or indirect interests the member holds or that are held by a related person in a body, enterprise, association or any other entity that could place the member in a situation of conflict of interest as well as the rights the member may invoke against the body, enterprise, association or other entity indicating, where applicable, the nature and value of the rights.

The declaration of interest must be sent within 30 days of the adoption of the code of ethics and conduct or of the member's appointment, as the case may be, and every year thereafter.

Subject to section 35, the member must also send the declaration of interest to the contracting party that appointed the member or the entity that the member represents.

A member may not participate in a board meeting if the member has not sent the initial or annual declaration to the board.

In addition, a member must, without delay and in writing, inform the board and the contracting party that appointed the member or the entity that the member represents of any change to the declaration.

A declaration or any change to the declaration is entered in the minutes of the board meeting. The declaration or change is confidential, subject to section 23.1 of the Act.

39. A member who is in a situation of conflict of interest must immediately notify the chair or co-chairs of the board of directors. In the case of the chair or co-chairs, they must immediately notify the board of their situation of conflict of interest.

The member must abstain from discussing and voting on any issue involving the interest declared or concerning directly the contracting party that appointed the member or the entity that the member represents. The member must also withdraw from the meeting for the duration of the discussion and the vote on the issue.

This section does not prevent a member from expressing himself or herself on general application measures.

40. When a subject included on the agenda of a meeting of the board of directors or one of its committees or subcommittees includes a possibility of conflict of interest related to the function of a member or concerns directly the contracting party that appointed the member or the entity that the member represents, the secretary of the board of directors notifies the member concerned and the chair or co-chairs of the board of directors.

The member then discusses with the chair or co-chairs of the necessity to abstain from participating in the discussion and voting on the issue. Where applicable, the member's withdrawal and the general reasons for the withdrawal are entered in the minutes of the meeting concerned. A reminder of the undertaking to comply with the rules of discretion and confidentiality set out in this Regulation or the regulation for internal management may also be given to the member by the chair or co-chairs where the documents of the meeting have already been given to the member.

41. A member may represent the views of the contracting party that appointed the member or the entity whose interest the member represents, but the member must do so by taking into account the interest of the parity committee. The member must also represent the views of the committee to that contracting party or entity.

42. A member may not intervene in respect of an employee of the parity committee to influence the progress of a file or a decision related to a file.

43. A member may not accept, as part of the member's functions, any gift, hospitality or other advantage, except what is customary and is of modest value.

Any other gift, hospitality or advantage received, except what is customary and is of modest value, must be returned to the giver.

44. A member cannot himself or herself or by a related person grant, accept or solicit a favour from a person, a body, an enterprise or an association dealing with the parity committee or acting for or for the benefit of any of them.

45. A member must avoid any behaviour incompatible with the requirements of the member's functions and, in particular, that could discredit the parity committee, undermine its credibility or reputation or jeopardize trust in the committee.

46. A member must declare to the chair or co-chairs of the board of directors any contravention to the ethical and professional obligations committed by the member or of which the member has knowledge in the exercise of the functions. In the case of the chair or co-chairs, they must make their declaration to the board.

47. A member who has ceased holding the office must continue to comply with the obligations of integrity, loyalty and discretion towards the parity committee.

48. A member who has ceased holding the office must conduct himself or herself so as not to obtain undue benefit from their prior position in the parity committee.

49. A member who has ceased holding the office must not disclose confidential information obtained in or in connection with the carrying out of the duties of their former position, and must not give advice to any person based on information not available to the public concerning the parity committee in the year before the member ceased to hold the office.

A member who has ceased holding the office must not, in the year following the end of the office, act for or on behalf of any other person in a proceeding, negotiation or other transaction to which the committee is a party and for which the member holds information not available to the public.

DIVISION VI DELEGATION OF AUTHORITY

50. The regulation for internal management must include a section on the general delegations of authority, which must provide for in particular the terms applicable if the general manager is absent, unable to act or replaced.

A person authorized in writing by the board of directors to exercise the functions of general manager on an interim or provisional basis or during a temporary replacement has the same powers and obligations as the general manager.

51. The decision to institute legal proceedings in a civil or criminal case must be made by the board of directors.

The case for authorization to proceed sent to the board for decision must be anonymized to preserve the board's impartiality, but it must contain the allegations in support of the application for authorization and any relevant documents.

In the case of a criminal case, the board may delegate to the person it designates the power to file an application for authorization to the judge so that the judge authorizes the proceedings. The application for authorization must be subsequent to the decision of the board to authorize a criminal proceeding and the case must be substantially conform to the case submitted to the board for a decision.

PART IV REGULATION ON A REGISTRATION SYSTEM OR THE KEEPING OF A REGISTER

52. A registration system or register kept by a professional employer under a regulation made pursuant to subparagraph g of the second paragraph of section 22 of the Act must contain the information listed therein.

The regulation may require that the following information also be indicated therein:

(1) the number of hours of work per day;

(2) the total number of hours of work per week;

(3) the number of overtime hours paid or compensated for by a day off with the applicable premium or accounted for in a time bank;

- (4) the number of days of work per week;
- (5) the wage rate;
- (6) the nature and amount of premiums, indemnities, allowances or commissions paid;
- (7) the amount of gross wages;
- (8) the nature and amount of deductions made;
- (9) the amount of net wages paid to the employee;
- (10) the work period corresponding to the payment;
- (11) the date of the payment;
- (12) the reference year;
- (13) the duration of the annual vacation;
- (14) the date on which the employee leaves for the annual vacation with pay;
- (15) the date on which the employee was entitled to a general holiday with pay or to another day of holiday, including the compensatory holidays for general holidays with pay;
- (16) the places, where applicable, where the work covered by a decree is carried out;
- (17) any information necessary to the administration and application of the social security benefits provided for in the decree, including a pension plan or a group insurance and a vacation pay fund;
- (18) any other information considered useful for the application of the decree and approved by the Government.

53. The information contained in the registration system or the register concerning a year must be kept for a period of 3 years following that year.

54. A registration system or register held by an employer in compliance with the Regulation respecting a registration system or the keeping of a register (chapter N-1.1, r. 6), is considered to be compliant with this Regulation provided that an indication is added to the registration system or the register, as the case may be, concerning the professional qualification held by the employees where a decree or a regulation of the parity committee make the qualification certificate for carrying on a trade mandatory.

PART V REGULATION ON THE MONTHLY REPORT

55. A monthly report required in a regulation made pursuant to subparagraph *h* of the second paragraph of section 22 of the Act must only contain the information mentioned therein.

The regulation must provide that the report is sent to the parity committee even if no work has been performed. It may also determine the methods of transmission of the report authorized by the committee.

PART VI REGULATION ON THE LEVY

56. The parity committee may levy upon the professional employer, the employee and the worker or artisan who is not serving an employer the sums required for the carrying out of the decree.

The amount of the levy or the basis for the calculation of the levy, as the case may be, is set in the regulation made pursuant to subparagraph *i* of the second paragraph of section 22 of the Act. The amount of the levy must not exceed the limit provided for in that subparagraph.

The levy must be used only for the purposes for which it is collected.

57. The regulation determines the rate of levy required from the professional employer or the employees or both.

The levy required from the employees must be collected by retaining out of the wages of the employees.

The sums retained by the professional employer and those that the employer must pay must be remitted to the parity committee with the monthly report.

58. The regulation determines the levy demandable from the employee who is not serving a professional employer.

The levy is remitted to the parity committee in the manner and at the frequency determined in the regulation, but at least once a year.

PART VII REGULATION ON THE ATTENDANCE ALLOWANCES

59. The members of the parity committee are not remunerated. They are entitled to an attendance allowance and the reimbursement of their actual travel expenses.

60. The attendance allowance and actual travel expenses are granted to a member who participates in a meeting of the board of directors or one of its committees or subcommittees.

61. The amount of the attendance allowance is set in the regulation made pursuant to subparagraph 1 of the second paragraph of section 22 of the Act. The amount may not exceed \$200 per day and the total amount of the allowances may not exceed \$5,000 per year.

The amount is payable after the participation of the member to a meeting of the board of directors or one of its committees or subcommittees. No advance may be paid to a member.

Subject to the first paragraph, no salary, remuneration, compensation, benefit or other amount may be paid to the members for their participation in the meetings of the board of directors or of one of its committees or subcommittees or in the activities of the parity committee.

62. The actual travel expenses are composed of the costs for transportation, meals and accommodation. They are reimbursed after the participation of a member in a meeting of the board of directors or of one of its committees or subcommittees in accordance with the Directive sur les frais remboursables lors d'un déplacement et autres frais inhérents (C.T. 194603 dated 30 March 2000) and its subsequent modifications.

No expenses are reimbursed for the virtual participation of a member to a meeting of the board, one of its committees or subcommittees.

PART VIII TRANSITIONAL AND FINAL

63. As of 1 November 2022, subparagraph 1 of the first paragraph of section 10 is replaced by the following:

“minors and persons of full age under tutorship or under a protection mandate”.

64. Despite the first paragraph of section 16, a person who is a member of the board of directors of a parity committee on *(insert the date of coming into force of this Regulation)* remains in office for the remainder of the term, which must however end not later than *(insert the date that occurs 4 years after the date of coming into force of this Regulation)*.

65. Despite subparagraphs 5 and 6 of the second paragraph of section 17, a parity committee has until *(insert the date that occurs 1 year after the date of coming into force of this Regulation)* to adopt or adopt again with the

necessary modifications the documents provided for in subparagraph 5 of the second paragraph of that section or to establish the competence and experience profile of the members of the committee.

66. Despite section 28, the general manager of a parity committee or the person designated by the general manager has until *(insert the date that occurs 1 year after the date of coming into force of this Regulation)* to publish on the committee's website the information and documents provided for in that section.

67. This Regulation comes into force on *(insert the fifteenth day following the date of its publication in the Gazette officielle du Québec)*.

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