STATUTORY INSTRUMENTS

2014 No. 2833

CIVIL AVIATION

The Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2014

Made - - - -	*16th October 2014*
Laid before Parliament	*27th October 2014*
Coming into force - -	*1st December 2014*

The Secretary of State is designated for the purposes of section 2(2) of the European Communities Act 1972(**a**) in relation to measures relating to air transport(**b**) and discrimination(**c**) and in exercise of the powers conferred by that section makes these Regulations.

Citation and commencement

1. These Regulations may be cited as the Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2014 and come into force on 1st December 2014.

Revocation

2. The Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2007(**d**) are revoked.

Interpretation

3.—(1) In these Regulations—

"the Articles" means Articles 2 to 15 of the EC Regulation;

"the CAA" means the Civil Aviation Authority;

"the EC Regulation" means Regulation (EC) No.1107/2006 of the European Parliament and of the Council of 5th July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air(**e**);

"electronic address" includes a fax number and an email address;

(**a**) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7).
(**b**) S.I. 1993/2661.
(**c**) S.I. 2002/1819.
(**d**) S.I. 2007/1895.
(**e**) OJ No. L.204, 26.7.2006, p1.

"electronic communication" means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa) by means of an electronic communications network;

"electronic communications network" has the meaning set out in section 32(1) of the Communications Act 2003(**a**);

"enforcement order" is to be construed in accordance with regulation 11;

"enforcement subject" means a person against whom the CAA would seek an enforcement order or interim enforcement order;

"interim enforcement order" is to be construed in accordance with regulation 12;

"the Montreal Convention" means the Montreal Convention for the Unification of Certain Rules for International Carriage which was made on 28th May 1999(**b**).

(2) In these Regulations "air carrier", "airport", "disabled person", "managing body of an airport", "operating air carrier", "person with reduced mobility" and "tour operator" have the same meaning as in the EC Regulation.

(3) A reference to an Article is a reference to that Article in the EC Regulation.

(4) A reference in these Regulations to a document or any other thing in writing includes that document or thing in an electronic form.

Duty to enforce

4.—(1) The CAA is the designated body for the purposes of Article 14 and it and any person authorised to act on its behalf are to have access at all reasonable times to any part of an airport or aircraft for the purposes of carrying out the CAA's function under that Article.

(2) Subject to paragraph (3), for the purposes of Article 15(2) the CAA is the designated body.

(3) The General Consumer Council for Northern Ireland is the designated body for those purposes in respect of a complaint made under the EC Regulation relating to—

(a) an airport in Northern Ireland, or

(b) a flight departing from an airport in Northern Ireland.

Consultation

5.—(1) The CAA must not make an application for an enforcement order or an interim enforcement order unless it has engaged in appropriate consultation with the enforcement subject.

(2) Appropriate consultation is consultation for the purpose of—

(a) achieving the cessation of the infringement of the EC Regulation in a case where an infringement is occurring;

(b) ensuring that there will be no repetition of the infringement in a case where an infringement has occurred;

(c) ensuring that there will be no repetition of the infringement in a case where the cessation of the infringement is achieved under sub-paragraph (a); or

(d) ensuring that an infringement does not take place where the CAA believes that one is likely to take place.

(3) Regulations 6 to 9 apply to an appropriate consultation between the CAA and the enforcement subject.

(4) Paragraph (1) does not apply if the CAA thinks that an application for an enforcement order or an interim enforcement order should be made without delay.

(**a**) 2003 c.21. Section 32(1) was amended by regulation 2(1) of, and paragraph 9 of Schedule 1 to, the Electronic Communications and Wireless Telegraphy Regulations 2011 (S.I. 2011/1210).

(**b**) Cm. 4651.

(5) Paragraph (1) ceases to apply—

(a) for the purposes of an application for an enforcement order, at the end of the period of 14 days beginning with the day after the enforcement subject receives a request for consultation from the CAA;

(b) for the purposes of an application for an interim enforcement order, at the end of the period of seven days beginning with the day after the enforcement subject receives a request for consultation from the CAA.

Request for consultation

6. A request for consultation must be made by setting out the request in writing and—

(a) by delivering the request personally to a person specified in regulation 7; or

(b) by posting, or transmitting the request by electronic communication, to, or leaving it at, an address for service referred to in regulation 8, appropriate to the method of communication, addressed to a person specified in regulation 7.

Person to whom a request for consultation is to be made

7. The person to whom a request for consultation under regulation 6 is to be addressed or delivered is—

(a) for an individual, that person;

(b) for a body corporate other than a limited liability partnership, a director, secretary, chief executive, treasurer, manager or other similar officer of that body;

(c) for a limited liability partnership, any designated member as defined by section 18 of the Limited Liability Partnerships Act 2000(**a**);

(d) for a partnership, a partner or any person having control or management of the business;

(e) for an unincorporated body or association, the proprietor or a person concerned in the management or control of the body or association.

Address for service

8. A request for consultation may be sent to one of the following addresses as appropriate—

(a) for an individual, that person's usual or last known place of business, employment, or residence;

(b) in the case of a body corporate other than a limited liability partnership, its principal or registered office or its principal place of business;

(c) in the case of a limited liability partnership, the address of its principal or registered office;

(d) in the case of a partnership or an unincorporated body or association, its principal office or principal place of business; and

(e) in any case an electronic address which the enforcement subject has held out as an address at which that person can be contacted.

Date of receipt of request

9.—(1) A request for consultation which satisfies the requirements of regulation 6 is, unless the contrary is proved, deemed to be received as follows—

(a) where left at an address, the next business day;

(**a**) 2000 c.12. Section 18 cross-refers to section 8 of the Limited Liability Partnerships Act 2000 and section 8 has been amended by regulation 85 of the Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804).

(b) where sent by first class post, the second business day after the day on which it was posted;

(c) where sent by second class post, the fifth business day after the day on which it was posted;

(d) where transmitted by electronic communication, the business day after the notice was transmitted; or

(e) where delivered personally, the day it is delivered, or if delivered after 5 pm or on a day which is not a business day, the next business day.

(2) A "business day" is a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**a**) in any part of the United Kingdom.

Applications

10.—(1) The CAA may make an application for an enforcement order or an interim enforcement order in respect of any infringement or potential infringement of any of the Articles.

(2) An application for an enforcement order or an interim enforcement order must name the person the CAA thinks—

(a) has engaged, or is engaging, in conduct which constitutes an infringement of any of the Articles; or

(b) is likely to engage in such conduct.

(3) The following courts have jurisdiction to make an enforcement order or an interim enforcement order —

(a) the High Court or a county court if the person against whom the order is sought carries on business or has a place of business in England and Wales or Northern Ireland;

(b) the Court of Session or the sheriff court if the person against whom the order is sought carries on business or has a place of business in Scotland.

Enforcement Orders

11.—(1) This regulation applies if an application for an enforcement order is made under regulation 10 and the court finds that the person named in the application—

(a) has engaged in conduct which constitutes an infringement of any of the Articles; or

(b) is likely to engage in such conduct.

(2) If this regulation applies the court may make an enforcement order against the person.

(3) In considering whether to make an enforcement order the court must have regard to whether the person named in the application—

(a) has given an undertaking under regulation 13 in respect of conduct such as is mentioned in paragraph (3) of that regulation; and

(b) has failed to comply with the undertaking.

(4) An enforcement order must—

(a) indicate the nature of the conduct to which the finding under paragraph (1) relates, and

(b) direct the person to comply with paragraph (5).

(5) A person complies with this paragraph if the person—

(a) in the case of an application under paragraph (1)(a), does not continue or repeat the conduct; or

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(**a**) 1971 c.80.

(b) in the case of an application under paragraph (1)(b), does not engage in such conduct in the course of that person's business or another business.

(6) Paragraph (5)(a) does not apply in the case of a finding under paragraph (1)(b).

(7) An enforcement order may require a person against whom the order is made to publish in such form and manner and to such extent as the court thinks appropriate for the purpose of eliminating any continuing effects of the infringement—

(a) the order; and

(b) a corrective statement.

(8) If the court makes a finding under paragraph (1), it may accept an undertaking by the person—

(a) to comply with paragraph (5), or

(b) to take steps which the court believes will secure that the person complies with paragraph (5).

(9) An undertaking under paragraph (8) may include a further undertaking by the person to publish in such form and manner and to such extent as the court thinks appropriate for the purpose of eliminating any continuing effects of the infringement—

(a) the terms of the undertaking; and

(b) a corrective statement.

(10) If the court accepts an undertaking under paragraph (8), it must not make an enforcement order in respect of the infringement to which the undertaking relates.

(11) An enforcement order made by a court in one part of the United Kingdom has effect in any other part of the United Kingdom as if made by a court in that part.

Interim Enforcement Orders

12.—(1) The court may make an interim enforcement order against a person named in the application for the order if it appears to the court—

(a) that it is alleged that the person is engaged in conduct which constitutes an infringement of any of the Articles or is likely to engage in such conduct;

(b) if the application had been an application for an enforcement order, that it would be likely to be granted;

(c) that it is expedient that the alleged conduct is prohibited or prevented (as the case may be) expeditiously; and

(d) if no notice of the application has been given to the person named in the application, that it is appropriate to make an interim enforcement order without notice.

(2) An interim enforcement order must—

(a) indicate the nature of the alleged conduct, and

(b) direct the person to comply with paragraph (3).

(3) A person complies with this paragraph if that person—

(a) does not continue or repeat the conduct; or

(b) does not engage in such conduct in the course of that person's business or another business.

(4) Paragraph (3)(a) does not apply in so far as the application is made in respect of an allegation that the person is likely to engage in conduct which constitutes an infringement of any of the Articles.

(5) An application for an interim enforcement order against a person may be made at any time before an application for an enforcement order against the person in respect of the same conduct is determined.

(6) An application for an interim enforcement order must refer to all matters—

(a) which are known to the CAA, and

(b) which are material to the question whether or not the application is granted.

(7) If an application for an interim enforcement order is made without notice the application must state why no notice has been given.

(8) The court may vary or discharge an interim enforcement order on the application of—

(a) the CAA;

(b) the person against whom it is made.

(9) An interim enforcement order against a person is discharged on the determination of an application for an enforcement order made against the person in respect of the same conduct.

(10) If it appears to the court as mentioned in paragraph (1)(a) to (c) that court may instead of making an interim enforcement order accept an undertaking from the person named in the application—

(a) to comply with paragraph (3), or

(b) to take steps which the court believes will secure that the person complies with paragraph (3).

(11) An interim enforcement order made by a court in one part of the United Kingdom has effect in any other part of the United Kingdom as if made by a court in that part.

Undertakings to the CAA

13.—(1) This regulation applies if the CAA has power to make an application under regulation 10.

(2) In such a case the CAA may accept from a person to whom paragraph (3) applies an undertaking that the person will comply with paragraph (4).

(3) This paragraph applies to a person who the CAA believes—

(a) has engaged in conduct which constitutes an infringement of any of the Articles;

(b) is engaging in such conduct; or

(c) is likely to engage in such conduct.

(4) A person complies with this paragraph if that person—

(a) does not continue or repeat the conduct; and

(b) does not engage in such conduct in the course of that person's business or another business.

(5) Paragraph (4)(a) does not apply in the case of an undertaking given by a person in so far as paragraph (3) applies to that person by virtue of paragraph (3)(c).

Further proceedings

14.—(1) This regulation applies if the court—

(a) makes an enforcement order under regulation 11;

(b) makes an interim enforcement order under regulation 12; or

(c) has accepted an undertaking under either of those regulations.

(2) In such a case, the CAA may apply to the court in respect of a failure to comply with the order or undertaking.

(3) An application to the court in respect of a failure to comply with an undertaking may include an application for an enforcement order or an interim enforcement order.

(4) If the court finds that an undertaking is not being complied with it may make an enforcement order or an interim enforcement order.

(5) In the case of an application for an enforcement order or an interim enforcement order under paragraph (3), regulation 5 must be ignored and regulations 10, 11 or 12 (as the case may be) apply subject to the following modifications—

(a) regulation 10(2)(b) and 11(1)(b) must be ignored;

(b) regulation 10(3) must be ignored and the application must be made to the court which accepted the undertaking;

(c) regulation 11(8) to (10) must be ignored; and

(d) regulation 12(10) must be ignored.

Bodies corporate: orders

15.—(1) This regulation applies if a court makes an enforcement order or an interim enforcement order against a body corporate and—

(a) at the time the order is made the body corporate is a member of a group of interconnected bodies corporate,

(b) at any time when the order is in force the body corporate becomes a member of a group of interconnected bodies corporate, or

(c) at any time when the order is in force a group of interconnected bodies corporate of which the body corporate is a member is increased by the addition of one or more further members.

(2) The court may direct that the order is binding upon all of the members of the group as if each of them were the body corporate against which the order is made.

(3) A group of interconnected bodies corporate is a group consisting of two or more bodies corporate all of whom are interconnected with each other.

(4) Any two bodies corporate are interconnected—

(a) if one of them is a subsidiary of the other, or

(b) if both of them are subsidiaries of the same body corporate.

(5) In this regulation, "subsidiary" has the meaning given by section 1159 of the Companies Act 2006(**a**).

Information

16.—(1) Subject to paragraph (3) the CAA may for any of the purposes mentioned in paragraph (2) give a notice to any person requiring the person to provide the CAA with the information specified in the notice.

(2) The purposes are to ascertain whether a person has complied with or is complying with—

(a) any of the Articles;

(b) an enforcement order or an interim enforcement order;

(c) an undertaking given under regulation 11(8) following an application for an enforcement order or under regulation 12(10) following an application for an interim enforcement order; or

(d) an undertaking given to the CAA under regulation 13.

(3) The CAA must not give a notice for a purpose under paragraph (2)(a) unless the CAA has reasonable cause to believe the person has infringed, or is likely to infringe, any of the Articles.

Notices: procedure

17.—(1) This regulation applies to a notice given under regulation 16.

(**a**) 2006 c.46.

(2) The notice must—

(a) be in writing; and

(b) specify the purpose for which the information is required.

(3) A notice may specify the time within which and manner in which it is to be complied with.

(4) A notice may require the production of documents or any description of documents.

(5) The CAA may take copies of any documents produced in compliance with such a requirement.

(6) A notice may specify the form in which information is to be provided.

(7) A notice may be varied or revoked by a subsequent notice.

(8) A notice must not require a person to provide any information or produce any document which that person would be entitled to refuse to provide or produce—

(a) in proceedings in the High Court on the grounds of legal professional privilege;

(b) in proceedings in the Court of Session on the grounds of confidentiality of communications.

(9) A notice must be given—

(a) by delivering the notice personally to that person; or

(b) by posting, or transmitting the notice by electronic communication, to, or leaving it at, an address for service set out in paragraph (10), appropriate to the method of communication, addressed to the person from whom information is being requested.

(10) A notice may be sent to one of the following addresses as appropriate—

(a) in the case of an individual, that person's usual or last known place of business, employment, or residence;

(b) in the case of a body corporate other than a limited liability partnership, its principal or registered office or its principal place of business;

(c) in the case of a limited liability partnership, the address of its principal or registered office;

(d) in the case of a partnership or an unincorporated body or association, its principal office or principal place of business;

(e) in any case an electronic address which the person from whom information is being requested has held out as an address at which that person can be contacted.

Notices: enforcement

18.—(1) If a person fails to comply with a notice given under regulation 16 the CAA may make an application to the court under this regulation.

(2) If it appears to the court that the person to whom the notice was given has failed to comply with the notice the court may make an order under this regulation.

(3) An order under this regulation may require the person to whom the notice was given to do anything the court thinks it is reasonable for that person to do for a purpose mentioned in regulation 16 to ensure that the notice is complied with.

(4) An order under this regulation may require the person to meet all the costs and expenses of the application.

(5) If the person against whom the order is made under paragraph (2) is a body corporate, other than a limited liability partnership, or association the court may require any officer of the body corporate or association who is responsible for the failure to comply with the notice to meet the costs and expenses.

(6) If the person against whom the order is made under paragraph (2) is a limited liability partnership the court may require any designated member (as defined by section 18 of the Limited

Liability Partnerships Act 2000(**a**)) who is responsible for the failure to comply with the notice to meet the costs and expenses.

(7) For the purpose of an application under this regulation the court is a court which may make an enforcement order or an interim enforcement order.

(8) In paragraph (5) an officer of a body corporate is a person who is a director, manager, secretary or other similar officer of that body.

Evidence

19. Proceedings under these regulations are civil proceedings for the purposes of—

(a) section 11 of the Civil Evidence Act 1968(**b**) (convictions as evidence in civil proceedings);

(b) section 10 of the Law Reform (Miscellaneous Provision) (Scotland) Act 1968(**c**) (corresponding provision in Scotland);

(c) section 7 of the Civil Evidence Act (Northern Ireland) 1971(**d**) (corresponding provision in Northern Ireland).

General restriction

20.—(1) This regulation applies to specified information which relates to any business of an undertaking.

(2) Information is specified information if it comes to the CAA in connection with the carrying out of its duties under regulations 4 to 18.

(3) Such information must not be disclosed while the undertaking continues in existence, unless the disclosure is permitted under regulations 21 to 23.

(4) Paragraph (3) does not prevent the disclosure of any information if the information has on an earlier occasion been disclosed to the public in circumstances which do not contravene that paragraph or any other enactment or rule of law prohibiting or restricting the disclosure of the information.

(5) Nothing in this regulation or in regulations 21 to 23 authorises a disclosure of information which contravenes the Data Protection Act 1998(**e**).

(6) This regulation does not affect any power or duty to disclose information which exists apart from this regulation.

Consent

21.—(1) Regulation 20 does not prohibit the disclosure by the CAA of information held by it to any other person if it obtains the consent of the person to whom the information relates.

(2) If the information was obtained by the CAA from a person who had the information lawfully and the CAA knows the identity of that person the consent of that person is required.

(3) For the purposes of this regulation consent may be given—

(**a**) 2000 c.12. Section 18 cross-refers to section 8 of the Limited Liability Partnerships Act 2000 and section 8 has been amended by regulation 85 of the Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804).

(**b**) 1968 c.64. Section 11 was amended by sections 100 and 101 of the Criminal Justice Act 1991 (c.53), section 165(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (c.6), section 38 of the Armed Forces Act 2001 (c.19) and section 378(1) of the Armed Forces Act 2006 (c.52).

(**c**) 1968 c.70. Section 10 was amended by article 2 and paragraph 6 of Schedule 1 to the Armed Forces Act 2006 (Consequential Amendment) Order 2009 (S.I. 2009/2054) and sections 165(1) and 168(1) and paragraph 37 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c.6).

(**d**) 1971 c.36 N.I. Section 7 has been repealed in part by Schedule 1 Part IV to the Armed Forces Act 1996 (c.46), Schedule 7 to the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)) and Schedule 7 Part I to the Armed Forces Act 2001 (c.19) and has been amended by Schedule 1 Part IV to the Armed Forces Act 1996 (c.46) and Schedule 16 to the Armed Forces Act 2006 (c.52).

(**e**) 1998 c.29.

(a) in the case of a body corporate by a director, secretary or other officer of that body;

(b) in the case of a partnership by a partner;

(c) in the case of an unincorporated body or association by a person concerned in the management or control of the body or association.

Civil proceedings

22.—(1) The CAA, if in possession of information to which regulation 20 applies, may disclose that information to any person—

(a) for the purposes of, or in connection with, civil proceedings (including prospective proceedings) in the United Kingdom or elsewhere,

(b) for the purposes of obtaining legal advice in relation to such proceedings, or

(c) otherwise for the purposes of establishing, enforcing or defending legal rights that are or may be the subject of such proceedings.

(2) Information disclosed under this regulation must not be used by the person to whom it is disclosed for any purpose other than those specified in paragraph (1).

Criminal proceedings

23.—(1) The CAA, if in possession of information to which regulation 20 applies, may disclose that information to any person—

(a) in connection with the investigation of any criminal offence in any part of the United Kingdom;

(b) for the purposes of any criminal proceedings there;

(c) for the purpose of any decision whether to start or bring to an end such an investigation or proceedings.

(2) Information disclosed under this regulation must not be used by the person to whom it is disclosed for any purpose other than that for which it is disclosed.

(3) The CAA must not make a disclosure under this regulation unless it is satisfied that the making of the disclosure is proportionate to what is sought to be achieved by it.

Compensation claims by disabled persons for a damages award

24.—(1) A claim by a disabled person or person with reduced mobility for an infringement of any of that person's rights under the EC Regulation may be made the subject of civil proceedings in the same way as any other claim in tort or (in Scotland) in reparation for breach of statutory duty.

(2) For the avoidance of doubt, any damages awarded in respect of any infringement of the EC Regulation may, if and so far as they are compatible with articles 17 and 29 of the Montreal Convention or other international treaty obligation, include compensation for injury to feelings whether or not they include compensation under any other head.

(3) Proceedings in England, Wales or Northern Ireland may be brought only in a county court.

(4) Proceedings in Scotland may be brought only in a sheriff court.

(5) The remedies available in such proceedings are those which are available in the High Court or (as the case may be) the Court of Session.

(6) A county court or a sheriff court is not to consider a claim under this regulation unless proceedings in respect of it are instituted before the end of the period of six months beginning when the infringement complained of occurred.

(7) Where, in relation to proceedings or prospective proceedings under this regulation, the dispute concerned is referred to conciliation before the end of the period of six months mentioned in paragraph (6), the period allowed by that paragraph is to be extended by three months.

(8) A court may consider any claim under this regulation which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.

Signed by authority of the Secretary of State

Robert Goodwill
Parliamentary Under Secretary of State
Department for Transport

16th October 2014

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make further provision for implementing Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5th July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air(**a**) through a civil enforcement regime. The Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2007 (S.I. 2007/1895) which formerly implemented the EC Regulation are revoked. The criminal offences provided for by the 2007 Regulations are now replaced by a new enforcement regime.

The new enforcement regime provides for—

(a) power for the courts to make an enforcement order or an interim enforcement order on application of the Civil Aviation Authority (CAA): regulations 11 and 12;

(b) power for the CAA to accept an undertaking instead of seeking an enforcement order: regulation 13;

(c) further proceedings to be taken by the CAA following breach of an undertaking, enforcement order or an interim enforcement order: regulation 14; and

(d) power for the CAA to seek information for the purpose of ascertaining whether there is an infringement of the Articles or whether a person has complied with an order: regulation 16.

The ability to award damages for injury to feelings as part of a compensatory award is limited to cases where such damages are allowable under the UK's international treaty obligations (including in particular articles 17 and 29 of the Montreal Convention for the Unification of Certain Rules for International Carriage by Air which was made on 28th May 1999): regulation 24.

An impact assessment of the effect that the instrument will have on the costs of business, the voluntary sector and the public sector is available from the Department for Transport, Great Minster House, 33 Horseferry Road, London SW1P 4DR and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk. A copy has also been placed in the library of each House of Parliament.

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(**a**) OJ L No. 204, 26.7.06, p1.

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