

CHAPTER 318

THE TRUSTEES' INCORPORATION ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

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CHAPTER 318

THE TRUSTEES' INCORPORATION ACT

An Act to provide for the incorporation of certain Trustees.

[25th May, 1956]

[R.L. Cap. 375]	GNs. Nos.
Ord. No.	165 of 1956
18 of 1956	112 of 1962
Acts Nos.	478 of 1962
29 of 1967	179 of 1965
10 of 1999	112 of 1992
9 of 2019	242 of 1997
1 of 2020	246 of 2000
8 of 2020	
11 of 2023	

Short title

1. This Act may be cited as the Trustees' Incorporation Act.

Interpretation
Acts Nos.
9 of 2019 s. 76
8 of 2020 s. 62
Cap. 332

2. In this Act, unless the context requires otherwise-
“arrangement” has the meaning ascribed to it under the
Income Tax Act;

“beneficial owner” means a natural person-

- (a) who directly or indirectly ultimately owns or exercises substantial control over an entity or an arrangement;
- (b) who has a substantial economic interest in or receives substantial economic benefit from an entity or an arrangement directly or indirectly whether acting alone or together with other persons;
- (c) on whose behalf an arrangement is conducted; or
- (d) who exercises significant control or influence over a person or arrangement through a formal or informal agreement;

“politically exposed person” has the meaning ascribed to it under the Anti-Money Laundering Act;

“trust” means a legal relationship created by personal acts, by an order of the court or operation of the law, when specified property or interests are placed under the control and management of a trustee or trustees for the benefit of another party or parties, called a beneficiary

Cap. 423

or beneficiaries, or for purposes specified under section 3(1), and excludes:

- Cap. 56 (a) a non-governmental organisation registered under the Non-Governmental Organisations Act;
- Cap. 212 (b) a company registered under the Companies Act;
- Cap. 337 (c) a society registered under the Societies Act;
- (d) a trade union formed and registered under the Employment and Labour Relation Act;
- Cap. 366 (e) an agricultural association formed and registered under any written law other than this Act;
- Cap. 258 (f) political party registered under the Political Parties Act;
- (g) a sports association or club registered under the National Sports Council of Tanzania Act;
- Cap. 49 (h) a community microfinance group (VICOPA) registered under the Microfinance Act;
- Cap. 407 (i) a cooperative society formed and registered under the Cooperative Societies Act; and
- Cap. 211 (j) any trust which the Minister may, by order published in the *Gazette*, declare not to be a trust for the purpose of this Act;

“trustee” means a person who holds, controls and manages property or any other interests for the benefit of a beneficiary or beneficiaries, or for purposes specified in section 3(1).

[s. 1A]

Application for
incorporation
Acts Nos.
1 of 2020 s. 62
8 of 2020 s. 77

3.–(1) A trustee or trustees appointed by a body or association of persons bound together by custom, religion, kinship or nationality, or established for any religious, educational, literary, scientific, social or charitable purpose, and any person or persons holding any property on trust for any religious, educational, literary, scientific, social or charitable purpose, may apply to the Administrator-General for incorporation as a body corporate.

(2) Every such application shall be in writing signed by the person or persons making the application, and shall contain

particulars of beneficial owner and such particulars as may be prescribed and shall have annexed thereto copies, verified in the prescribed manner, of the constitution and rules of the body or association, if any, and of any trust instrument or declaration of trust defining the trusts on which such property is so held.

(3) Particulars of beneficial owner referred to under subsection (2) shall include-

- (a) full name and any former or other name;
- (b) date and place of birth;
- (c) telephone number;
- (d) nationality, national identity number, passport number or other appropriate identification and proof of identity;
- (e) residential, postal and email address, if any;
- (f) place of work and position held;
- (g) nature of the interest including the details of the legal, financial, security, debenture or informal arrangement giving rise to the beneficial ownership; and
- (h) oath or affirmation as to whether the beneficial owner is a politically exposed person or not.

(4) The Administrator-General may require such declaration upon oath or otherwise or other evidence in verification of the statements and particulars in the application, and such other particulars, information or evidence as he may think necessary or proper.

(5) The Administrator-General may, before a trust is incorporated or at any later stage after incorporation, require disclosure of the names of settlors and beneficiaries of the trust.

[s. 2]

4. Notwithstanding section 3, a trustee or trustees holding property in trust for any religious, educational, literary, scientific, social or charitable purposes who has not or have not been incorporated under any law or whose incorporation is not provided by any law, shall apply for incorporation under this Act.

[s. 3]

Persons not eligible to take part in management or administration as trustees
Act No. 10 of 1999 Sch.

5.-(1) A person who is a member of a body corporate or organisation concerned with the management or otherwise concerned with the administration of such body corporate or organisation shall not be qualified to apply for incorporation as a trustee or trustees if-

- (a) he is convicted of a criminal offence or any offence involving fraud or dishonesty;
- (b) he is adjudged bankrupt under any written law or enters into any agreement or scheme of composition with his creditors, or takes advantage of any law for the benefit of his debtors.

(2) A person who has been directly or indirectly concerned with the management or has otherwise been directly or indirectly suspended, shall not without the approval of the Administrator-General act or continue to act in any capacity in the management or administration of any body corporate or organisation.

(3) A person who contravenes this section commits an offence and on conviction shall be liable to imprisonment for a term of not less than two years or to a fine of not less than two hundred thousand shillings or to both.

[s. 4]

Grant of certificate

6.-(1) Where the Administrator-General considers an incorporation expedient, he may grant a certificate of incorporation, subject to such conditions or directions generally as he shall think fit to insert in such certificate, and in particular, but without prejudice to the generality of the foregoing, may impose restrictions on the amount of land which such body corporate may hold, and the uses to which such land may be put.

(2) The Administrator-General shall give notice in the *Gazette* of all certificates of incorporation granted under this section.

[s. 5]

Names of bodies corporate

7.-(1) A trustee or trustees shall not be incorporated with a name which in the opinion of the Administrator-General, is undesirable.

(2) The name of every body corporate created under this Act shall include the words "Registered Trustees".

(3) A body corporate created under this Act may, with the prior approval in writing of the Administrator-General, change its name, and shall, within one month of so doing, notify the change to the Administrator-General in the prescribed manner.

(4) Where a body corporate has changed its name, the Administrator-General may amend its certificate of incorporation or may issue a new certificate in substitution therefore.

[s. 6]

Certificate to be evidence of compliance with requisitions

8. Subject to the provisions of section 25, a certificate of incorporation granted under section 6 shall be conclusive evidence that all the preliminary requisitions herein or in any rules made hereunder and required in respect of such incorporation have been complied with, and the date of incorporation mentioned in such certificate shall be deemed to be the date at which incorporation has taken place.

[s. 7]

Effect of incorporation Act No. 1 of 2020 s. 63

9.-(1) Upon the grant of a certificate under subsection (1) of section 6, the trustee or trustees shall become a body corporate by the name described in the certificate, and shall have-

- (a) perpetual succession and a common seal;
- (b) power to sue and be sued in such corporate name;
- (c) subject to the conditions and directions contained in the said certificate to hold and acquire, and, by instrument under such common seal, to transfer, convey, assign and demise, any land, finance, shares, monies, securities, stock or other properties or any interest therein in such and the like manner, and subject to the like restrictions and provisions, as such trustee or trustees might, without such incorporation, hold or acquire, transfer, convey therein, assign or demise any land, finance, shares, monies, securities, stock or other properties or any interest.

(2) All conditions and directions inserted in any certificate of incorporation shall be binding upon and performed or observed by the trustee or trustees as trusts of the body or association of persons or under the trust instrument or declaration of trust.

[s. 8]

Property to vest
in body corporate
Cap. 334

10. The certificate of incorporation shall, subject to compliance with the Land Registration Act and other any law amending or replacing the Land Registration Act, vest in such body corporate all movable and immovable property of whatever nature or tenure, belonging to or held by the trustee or trustees or by any other person or persons in trust for the body or association of persons or under the trust instrument or declaration of trust, as the case may be, and upon incorporation any person or persons in whose name or names any stocks, funds or securities shall be standing in trust for the body or association of persons or under such trust instrument or declaration of trust, as the case may be, shall transfer the stocks, funds or securities into the name of such body corporate, and all covenants and conditions relating to any such immovable property enforceable by or against the trustee or trustees thereof before his or their incorporation shall be enforceable to the same extent and by the same means by or against the body corporate.

[s. 9]

Gifts to vest in
body corporate

11. After the incorporation of any trustee or trustees under this Act, every donation, gift and disposition of land, or any interest therein, lawfully made, but not having actually taken effect or thereafter lawfully made by deed, will or otherwise to or in favour of the body or association of persons by whom the trustees were appointed, if any, or the trustee or trustees, or otherwise for the purposes of the trust, shall take effect as if the same had been made to, or in favour of the body corporate for the like purposes.

[s. 10]

Common seal

12.-(1) The common seal of the body corporate shall contain the title of the body corporate and shall have such device as

may be approved by the Administrator-General and until such common seal is provided, a seal authorised by the Administrator-General may be used as the common seal of the body corporate.

(2) Where a seal purporting to be the seal of a body incorporated under this Act has been affixed to a deed and attested in apparent compliance with the regulations of the body corporate governing the use thereof, no disposition effected by such deed in favour of a *bona fide* purchaser for value shall be defeasible solely by reason of any irregularity in such affixing or attestation or by reason of any defect in the appointment or qualification of any trustee.

[s. 11]

Deeds and
contracts

13.-(1) Every deed to which a body incorporated under this Act is a party shall be executed by such body under its common seal or by an attorney appointed in that behalf under such common seal.

(2) Except as provided in subsection (1), contracts made by a body incorporated under this Act shall not require the affixing of the common seal.

[s. 12]

Liability
of trustees
notwithstanding
incorporation

14. All trustees incorporated under this Act shall, notwithstanding their incorporation, be chargeable for such property as shall come into their hands or which may, by the exercise of due diligence have come into their hands and shall be answerable and accountable for their own acts, receipts, neglects and defaults, in the same manner and to the same extent as if no such incorporation had been effected.

[s. 13]

Administrator-
General may
investigate
activities of
trustee or trustees
Acts Nos.
10 of 1999 Sch.
9 of 2019 ss. 75
and 77

15.-(1) Where the Administrator-General is of the opinion that, a trustee incorporated under this Act uses or misuses any property vested in the trustee, he may investigate or authorise any fit and proper person to investigate on his behalf into the trustee.

(2) Where as the result of investigation carried out in pursuance of subsection (1), the Administrator-General is of the opinion that the trust property has been used, or misused in circumstances which are prejudicial to the interests of members of the body corporate or organisation in respect of which the trustee has been incorporated, he may-

- (a) suspend or remove the trustee and any person found in use or misuse of such property;
- (b) appoint a receiver and manager or the public trustee to take care of such property and run the day to day affairs of the body corporate or organisation for a period pending appointment of the new trustee or trustees;
- (c) freeze the bank account of that body corporate or organisation;
- (d) stop further action by the trustee or trustees in dealing with the property of the body corporate or organisation;
- (e) refer the matter to other relevant investigation authorities for further investigations with a view to taking further legal action in a court of law; or
- (f) pursue trustee or trustees who have committed breach of trust and to recover trust property or seek damages.

[s. 14]

Certain trustees
to be resident in
Tanzania
Act No.
11 of 2023 s. 82

16.-(1) Where a body incorporated under this Act consists of a sole trustee, that trustee shall be a person ordinarily resident in Tanzania.

(2) Where a body incorporated under this Act consists of two or more trustees, not less than two of such trustees shall be persons ordinarily resident in Tanzania.

(3) Notwithstanding the provisions of subsections (1) and (2) nothing in this section shall affect the capacity of a member of a body incorporated under the Land (Perpetual Succession) Ordinance who holds office as trustee on the date upon which this Act comes into force to continue in office as such trustee.

(4) For the purpose of this section, "ordinary resident" means a person who is living in the United Republic lawfully and voluntarily for settlement purposes as part of regular

Ord. No.
7 of 1927

order of his life for the time being whether for a long or short duration.

[s. 15]

Records
non-resident
beneficiary and
beneficial owner
Act No.
8 of 2020 s. 78

17. A trust shall submit to the Administrator-General records of non-resident beneficiary and beneficial owner of the trust.

[s. 15A]

Nomination of
trustees, filling
of vacancies and
return of trustees
Act No.
10 of 1999 Sch.

18.—(1) Where a certificate of incorporation has been granted, vacancies in the number of the trustees comprising the body corporate shall be filled by such legal means as would have been available for the appointment of a new trustee or new trustees where no certificate of incorporation had been granted.

(2) When a person ceases to be a trustee and when any new trustee is appointed and when any trustee changes his name or residence or postal address, the change shall, within one month of the happening, be notified in writing to the Administrator-General, in the prescribed manner, by the trustees for the time being.

(3) Whenever required in writing by the Administrator-General, and in any event within one month after the expiration of each period of twelve months after the grant of a certificate of incorporation, a return shall be made to the Administrator-General by the then trustee or trustees of the names of the trustee or trustees at such time as may be required or at the expiration of each such period, as the case may be, with his or their residences and postal addresses.

[s. 16]

Monitoring
meetings of body
corporates, and
organisations
Acts Nos.
10 of 1999 Sch.
9 of 2019 s. 75

19.—(1) No changes of the names of a person who is or who were trustee or trustees of a body corporate or organisation incorporated under this Act shall be authorised by the Administrator-General unless he is satisfied that-

- (a) there were held a lawful meeting of the body corporate or organisation for the purposes of electing a person or persons as trustee of such a body corporate or organisation;

(b) the meeting electing new leaders as trustees or any person to fill any vacancy was monitored by any of Government authorities.

(2) In the case of religious bodies, corporate or organisations, they shall each be monitored by their respective relevant supreme authority in Tanzania in accordance with their statutes, charter or instrument of that body corporate or organisation.

[s. 17]

Postal address

20. Every body corporate created under this Act shall at all times have a postal address and any change of the postal address of the body corporate shall, within one month of the change taking place, be notified in writing to the Administrator-General by the body corporate.

[s. 18]

Notification of change of trust

21. Trustees incorporated under this Act shall within one month, notify to the Administrator-General in the prescribed manner-

(a) the adoption of any resolution changing the constitution or rules of the body or association, if any, by whom they were appointed, if so and so far as any such change affects the powers or duties of the trustees, or their appointment or tenure of office, or the trusts to which they are subject; and

(b) the execution of any deed, the making of any order, the exercise of any power or any other act or happening by which the trusts to which they are subject are changed.

[s. 19]

Administrator-General may call for audited accounts
Acts Nos.
10 of 1999 Sch.
9 of 2019 s. 75

22.-(1) The Administrator-General may by notice under his hand, order any trustee or trustees incorporated under this Act to furnish to him, within a period prescribed in the order, duly audited accounts of any trustee or trustees incorporated under this Act.

(2) For the purposes of this section "duly audited accounts" means accounts audited by an approved or authorised auditor.

(3) Without prejudice to the provisions of subsections (1) and (2) of this section, the Administrator-General may at any time, by notice under his hand, order any trustee, within a time to be stated in such order, to permit its accounts to be inspected by himself or by a person authorised by him in writing.

(4) Every office-bearer and every person managing or assisting in the management of a trust in respect of which a notice under subsection (3) of this section has been served shall supply to the Administrator-General or the person authorised by him such information relating to the accounts of the trust or other matters incidental thereto as the Administrator-General or such authorised person may require and, when the inspection is undertaken by a person authorised by the Administrator-General, such person shall make a report of his inspection and shall at the earliest practicable opportunity, submit such report to the Administrator-General with such recommendations as he may deem fit to include.

(5) Where the accounts of a trustee or trustees are inspected by a person authorised by the Administrator-General, there shall be paid to such person (if he is not in the employment of the Government) out of funds allocated for that purpose from the general revenue of Tanzania in respect of the inspection such reasonable fee as the Administrator General may determine.

(6) The trustee or trustees who, on the grounds of failure to comply with an order under this section, shall-

- (a) have its incorporation revoked under section 25;
- (b) not be entitled to apply for incorporation under this Act until such an order has been complied with.

[s. 20]

23.-(1) Any order made by the Administrator-General in relation to any trust incorporated under this Act shall be binding upon every office-bearer and upon every person managing or assisting in the management of any such trust in Tanzania who has been served with the order.

(2) Where any trustee fails to comply with the whole or part of any order given under section 22, each of the persons

mentioned in subsection (1) who had been served with the order, on conviction shall be liable to a fine of not less than five hundred thousand shillings unless he establishes to the satisfaction of the court that he has exercised due diligence and has failed to comply with the order for reasons beyond his control.

(3) Where any information supplied to the Administrator-General in compliance with an order given under section 22 or any information supplied to the Administrator-General or the person authorised by him in compliance with an order given under section 22, is incorrect or incomplete in any material particular, the person who has supplied such information on conviction shall be liable to a fine of not less than two hundred thousand shillings unless he establishes to the satisfaction of the court that he believed and had good reason to believe that the information was correct and complete.

[s. 21]

Discretion
to publish
information
for benefit of
members
Act No.
9 of 2019 s. 75

24. The Administrator-General, where it appears to him to be in the interest of the members of a body corporate or organisation so to do, may, with the approval of the Minister, take such steps as may be necessary to publish to such members or the members by advertisement in the *Gazette*, and in any local newspaper or in such other manner as he may think fit, any information furnished by or on behalf of such trustee or trustees as was reported to the Administrator-General in pursuance to section 22 or 23.

[s. 22]

Revocation of
incorporation
Act No.
11 of 2023 s. 83

25.—(1) The Administrator-General may—

- (a) where he is satisfied that a body incorporated under this Act has obtained its certificate of incorporation by means of any fraud or false representation;
- (b) where for a period of one month there are no trustees comprising a body corporate created under this Act, or if at any time the number of such trustees ordinarily resident in Tanzania falls below the minimum number

of such trustees required to be so ordinarily resident in the case of the body corporate under the provisions of section 16;

- (c) where he is satisfied that any such body corporate has ceased to hold any trust property and that it is improbable that it will hold such property in the future;
- (d) where he is satisfied that any such body corporate has failed to fulfil or perform any of the conditions or directions inserted in its certificate of incorporation, or any of its obligations or duties under this or any other Act, or under the constitution and rules, or trust instrument, or declaration of trust, by which it is governed, as the case may be; or
- (e) where the trusts governing any such body corporate are so changed that they are no longer within the provisions of subsection (1) of section 3, serve notice on the body corporate, or, where the body corporate has failed to give notice to the Administrator-General of a change of postal address or cannot be found with the exercise of due diligence, give notice in the *Gazette* that he intends to revoke the incorporation of such body corporate, either unconditionally or unless such conditions as he may determine, are satisfied within such period as may be specified in the notice, and a copy of every such notice shall, if practicable, be sent to the body or association, if any, which appointed the trustee or trustees.

(2) At the expiration of such period as aforesaid, the Administrator-General may, by notice published in the *Gazette*, revoke the incorporation of such body corporate and thereupon the trustee or trustees shall cease to be incorporated and all movable and immovable property vested in the body corporate shall, subject to the provisions of the Land Registration Act or any Act amending or replacing the same, vest in the Administrator-General as a Public Trustee, and all covenants and conditions relating to any such immovable

property enforceable by or against the body corporate before the revocation of its incorporation shall be enforceable to the same extent by or against the Administrator-General.

(3) A body corporate may, at any time, request the Administrator-General to revoke the incorporation of such body, and upon receipt of such request the Administrator-General shall by notice in the *Gazette* revoke such incorporation, and thereupon the provisions of subsection (2) of this section as to the vesting of property and the enforceability of covenants and conditions shall apply.

(4) When the incorporation of any body corporate has been revoked under the foregoing powers, the trustee or trustees shall forthwith render up the certificate of incorporation to the Administrator-General.

[s. 23]

Administrator-General may revoke or suspend incorporation Acts Nos. 10 of 1999 Sch. 9 of 2019 s. 75

26.—(1) Without prejudice to section 25, the Administrator-General may revoke or suspend at any time the incorporation of any trust where it is expedient so to do on the grounds that the body corporate or organisation—

- (a) is being used for unlawful purposes or for any purpose prejudicial to or incompatible with the maintenance of peace, order and good governance;
- (b) has altered its objects or pursues objects other than its declared objects;
- (c) has failed to comply with an order issued by the Administrator-General in pursuance of section 22 or 23 within the time stated in the order; or
- (d) has breached in any way the trust.

(2) Revocation or suspension shall not be effected under this section unless the Administrator-General has notified his intention to do so and the trustee or trustees concerned had an opportunity, within one month to submit to the Administrator-General reasons why the revocation or suspension should not be effected.

[s. 24]

Record of applications and documents to be kept and copies supplied

27. The Administrator-General shall, in such manner as he shall think fit, keep a record of all applications for and certificates of incorporation, and shall preserve all documents sent to him under the provisions of this Act, and any person may require a copy or extract of any such document to be certified under the hand of the Administrator-General or of such other person as he may appoint for that purpose.

[s. 25]

Application to decide question whether person is member of corporate body or as to property

28. When any question arises as to whether a person is a member of a body corporate or as to the vesting or divesting of any property under the provisions of this Act, any person interested in such question may apply to the High Court for its opinion on such question and notice of hearing shall be given to such persons and in such manner as the court shall think fit, and any opinion given by the court on an application under this section shall be deemed to have the force of a declaratory decree.

[s. 26]

Appeals

29. A person aggrieved by the refusal of the Administrator-General to grant a certificate of incorporation or to approve a change of name, or by any conditions or directions inserted in any certificate of incorporation, or by the revocation of the incorporation of any body corporate may within twenty-one days after the notification of such refusal, conditions or directions or revocation, as the case may be, appeal to the Minister responsible for legal affairs and the Minister may make such order as the circumstances may require and except as aforesaid, no appeal shall lie against any such refusal, conditions, directions or revocation.

[s. 27]

Offences
Acts Nos.
10 of 1999 Sch.
9 of 2019 s. 75
11 of 2023 s. 84

30.—(1) Where a body corporate created under this Act makes a default in making any return or giving any notice required by or provided for under the provisions of this Act to the Administrator-General within the time limited therefor, every

trustee being a member of the body corporate shall be liable to a fine of not less than two hundred thousand shillings and for every month during which the default continues.

(2) Where any person in any return or notice to the Administrator-General required by or provided for under the provisions of this Act, wilfully makes a false statement in any material particular, knowing it to be false, shall be liable to a fine of not less than two hundred thousand shillings.

(3) Where the default concerned relates to the late filing of returns contrary to sections 6(3) and (4), 16(2) and (3) and 18, the defaulter shall, in addition to any other penalty provided, pay to the Administrator-General late filing fees of one hundred thousand shillings for every month during which the default continues.

[s. 28]

Power to
compound
offences
Acts Nos.
10 of 1999 Sch.
9 of 2019 s. 75

31. Where in relation to any offence committed by any trust, organisation or other body under this Act, the offender admits the offence, and the penalty imposable for it would be a fine of any amount not exceeding five hundred thousand shillings, the Administrator-General may, with the consent of the offender, compound the offence by requiring the offender to pay the fine determined by the Administrator-General who shall then provide the offender with a valid receipt for the amount.

[s. 29]

Exercise of power
in relation to
religious bodies
Acts Nos.
10 of 1999 Sch.
9 of 2019 s. 75

32. Notwithstanding the preceding provisions of this Act, the Administrator-General shall not exercise in relation to a religious body corporate or organisation any of the powers conferred upon him by sections 5, 15, 22, 23, 24 and 26 except after he has carried out consultations with the relevant supreme authority in Tanzania of the body or organisation concerned and in accordance with the statute, charter or instrument of that body corporate or organisation.

[s. 30]

Rules
GNs. Nos.
156 of 1956
179 of 1965
112 of 1992
424 of 1997
246 of 2020

33.—(1) The Chief Justice may make rules of court for regulating any proceedings before and applications to the court under the provisions of this Act and for the fees to be paid in respect thereof.

(2) Subject to the provisions of subsection (1), the Minister responsible for legal affairs may make rules for the better carrying out of the purposes and provisions of this Act, including the fixing of fees to be paid in respect of any matter under this Act required to be done, the prescribing of anything which this Act requires to be prescribed, the prescribing of forms, and the regulation of the records to be kept.

[s. 31]

Repeal and saving
Ord. No.
7 of 1927

34.—(1) [Repeals the Land (Perpetual Succession) Act.]

(2) Without prejudice, however, to the validity of any certificate of incorporation or the creation of anybody corporate under that Act, and all certificates of incorporation issued under that Act and all bodies corporate created thereunder shall be deemed to be issued or created under this Act, and such bodies shall continue in existence accordingly.

[s. 32]

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