

# **Specifications in relation to the reasonable adjustment of general qualifications**

Fulfilling our regulatory powers under section 96 of the Equality Act 2010



September 2017

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## Introduction

Awarding organisations have a duty, under the Equality Act 2010 (the Act), to make reasonable adjustments for disabled students taking their qualifications. Section 96(7) of the Act gives the appropriate regulator<sup>1</sup> – Ofqual in England – the power to prohibit or limit the extent to which awarding organisations must make or allow reasonable adjustments for specified general qualifications. We do this by making the specifications set out in this document.

In making specifications, we must have regard to:

- the need to minimise the extent to which disabled persons are disadvantaged in attaining the qualification because of their disabilities;
- the need to secure that the qualification gives a reliable indication of the knowledge, skills and understanding of a person upon whom it is conferred;
- the need to maintain public confidence in the qualification.

The Act gives the Secretary of State for Education the power to prescribe which qualifications in England are ‘relevant qualifications’ to which Ofqual’s specifications apply<sup>2</sup>. The current list is set out in appendix 1.

Our specifications only remove the duty on awarding organisations to make reasonable adjustments within the confines of those specifications. Where we have not made a relevant specification, awarding organisations remain under a legal duty to make reasonable adjustments for disabled students. Awarding organisations must consider what adjustments might be reasonable in any particular set of circumstances. That an adjustment is not subject to a specification does not mean that it will necessarily be reasonable in any particular set of circumstances.

Section 96(7) does not create a power of appeal to the appropriate regulator (Ofqual) for disabled students who are refused an adjustment. Where disabled students have been refused an adjustment by an awarding organisation, they may complain to the awarding organisation. Disabled students may be able to take such a complaint to court under equality legislation.

Section 96(7) does not give the appropriate regulator responsibility for monitoring and enforcing equality law. Decisions concerning what constitutes discrimination are

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<sup>1</sup> The Act gives the regulators for Wales (Qualifications Wales) and Scotland (Scottish Qualifications Authority) the same powers in their respective countries. The Equality act does not apply in Northern Ireland, where there is separate equality legislation.

<sup>2</sup> This power does not extend to vocational qualifications.

ultimately a matter for the courts. The Equality and Human Rights Commission (EHRC) is the public sector body responsible for promoting, monitoring and enforcing equality. The EHRC also provides advice and support to organisations and individuals on their duties and rights under equality law.

Current awarding organisation practice on the use of reasonable adjustments tends to be based on the Joint Council for Qualifications' (JCQ) publication *Access Arrangements and Reasonable Adjustments*, which is updated annually and is available on the JCQ website<sup>3</sup>. References in this document to current practice are references to practice as detailed in that document.

This document was updated on 1 September 2017 to incorporate changes made to the list of qualifications covered by these specifications (Appendix 1) by the *Equality Act 2010 (General Qualifications Bodies) (Appropriate Regulator and Relevant Qualifications) (Amendment) (England) Regulations 2017*.<sup>4</sup>

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<sup>3</sup> [www.jcq.org.uk/](http://www.jcq.org.uk/)

<sup>4</sup> [www.legislation.gov.uk/uksi/2017/705/contents/made](http://www.legislation.gov.uk/uksi/2017/705/contents/made)

## Specifications

Our specifications are set out below.

<b>A</b>	An exemption must not be used as a reasonable adjustment except where no other reasonable adjustment would avoid the substantial disadvantage faced by a Learner <sup>5</sup> in demonstrating the knowledge, skills and understanding being assessed.
<b>B</b>	An exemption must not be used as a reasonable adjustment where it would form more than 40% of the available (weighted) marks of a qualification. In addition – <ul style="list-style-type: none"><li>(i) In respect of a legacy<sup>6</sup> GCE qualification, a reasonable adjustment must not be made where this would mean that a Learner does not complete at least one A2 unit.</li><li>(ii) In respect of a GCSE qualification (9-1) in English language, a Learner who has been granted an exemption from the spoken language assessment must not be granted any other exemption.</li><li>(iii) In respect of a GCE A level qualification in biology, chemistry or physics, a Learner who has been granted an exemption from the practical science assessment must not be granted any other exemption.</li><li>(iv) In respect of a GCE A level qualification in geology, a Learner who has been granted an exemption from the practical skills assessment must not be granted any other exemption.</li></ul>
<b>C</b>	An exemption to part of a Component must not be used as a reasonable adjustment. Exemptions must only be provided for whole Components where a Learner can access no part of that Component.
<b>D</b>	Awarding organisations must not make reasonable adjustments in relation to grade boundaries, pass marks (also known as ‘cut scores’), or marks awarded for particular aspects of knowledge, skills and understanding save where those marks are awarded as a result of an exemption from a whole Component.

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<sup>5</sup> Terms in these specifications have the same meaning as defined in Condition J1.8 of the General Conditions of Recognition.

<sup>6</sup> Available for first teaching prior to September 2015

<p><b>E</b> Where an assessment seeks (in whole or in part) to test a Learner's reading ability, a human reader must not be used as a reasonable adjustment to allow a Learner to access marks in relation to any aspect of that reading ability save where the Learner demonstrates the relevant knowledge, skills and understanding in the assessment him or herself.</p>
<p><b>F</b> Where an assessment seeks (in whole or in part) to test a Learner's written communication skills, a human scribe, speech recognition system or other writing aid must not be used as a reasonable adjustment to allow a Learner to access marks in relation to any aspect of those written communication skills save where the Learner demonstrates the relevant knowledge, skills and understanding in the assessment him or herself.</p>
<p><b>G</b> Where an assessment seeks to test a Learner's knowledge of, skills in, or understanding of a particular language, the use of an alternative language – such as British Sign Language – must not be used as a reasonable adjustment where such use would prevent the Learner demonstrating the required knowledge, skills or understanding.</p>
<p><b>H</b> Where an assessment seeks to test a Learner's skills in relation to carrying out practical tasks, or demonstrating practical abilities, a practical assistant must not be used as a reasonable adjustment to allow a Learner to access marks, or be awarded a result, in relation to carrying out those tasks or demonstrating those abilities save where the Learner demonstrates the relevant knowledge, skills and understanding in the assessment him or herself.</p>
<p><b>I</b> Materials and other resources that are not normally made available to Learners during an assessment must not be provided as a reasonable adjustment where that provision would compromise the ability of the awarding organisation to make judgements on the Learner's knowledge, skills and understanding being assessed.</p>

# Guidance

## Exemptions

An exemption allows a disabled student to complete a qualification without taking certain assessments. The student's performance in the assessments they do take is used alongside other information to determine their performance for the whole qualification. Their marks for these assessments are used alongside statistical information to determine their overall grade. The student's certificate indicates that the student did not take all of the assessments because those assessments were not accessible to the student. An exemption could be granted, for example, to a deaf student who cannot take a listening assessment in a modern foreign language qualification.

Three of our specifications relate to exemptions.

**A – An exemption must not be used as a reasonable adjustment except where no other reasonable adjustment would avoid the substantial disadvantage faced by a Learner in demonstrating the knowledge, skills and understanding being assessed.**

## Guidance

Where possible, alternative reasonable adjustments should be made so that students have the opportunity to demonstrate what they can do, through their normal way of working. Only when all other adjustments have been considered and there are none that would enable the student to demonstrate the knowledge, skills and understanding, should an exemption be permitted.

### Example 1

If a student with a hearing impairment cannot access any part of the listening assessment in a qualification, and this assessment was worth 20% of the overall qualification marks, they could request an exemption from this part of the assessment. The student would complete the other parts of the assessment as normal, and be awarded an overall mark informed by their performance in the other parts of the assessment.

### Example 2

A student taking a written exam has a disability which means they can only handwrite very slowly. However, typing on a laptop allows them to produce written work at a normal speed. As a result, an exemption is unlikely to be appropriate. This is because there are other reasonable adjustments that could be made which would

help to minimise the disadvantage faced, such as allowing the student to use a laptop in the exam.

**B – An exemption must not be used as a reasonable adjustment where it would form more than 40% of the available (weighted) marks of a qualification. In addition –**

- (i) **In respect of a legacy<sup>7</sup> GCE qualification, a reasonable adjustment must not be made where this would mean that a Learner does not complete at least one A2 unit.**
- (ii) **In respect of a GCSE qualification (9-1) in English language, a Learner who has been granted an exemption from the spoken language assessment must not be granted any other exemption.**
- (iii) **In respect of a GCE A level qualification in biology, chemistry or physics, a Learner who has been granted an exemption from the practical science assessment must not be granted any other exemption.**
- (iv) **In respect of a GCE A level qualification in geology, a Learner who has been granted an exemption from the practical skills assessment must not be granted any other exemption.**

Guidance

Our specification limits the maximum amount of a qualification from which a disabled student can be exempted. This limit is so that, whilst as far as is possible students who cannot access part of a qualification are not disadvantaged as a result of their disability, awarding organisations still have sufficient evidence on which to base their assessment of the student's knowledge, skills and understanding. The specification refers to 'weighted marks' to take account of assessments which have different numbers of marks to one another, but which are weighted to reflect the contribution they make to the overall mark for the qualification<sup>8</sup>.

For legacy A levels, at least one A2 unit must be completed for an exemption to be allowed. This ensures that a student cannot be awarded an A level on the basis of only having completed AS units.

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<sup>7</sup> Available for first teaching prior to September 2015

<sup>8</sup> For example, four assessments could have different numbers of marks in each, but be weighted so that each assessment contributes 25 per cent towards the overall qualification mark.

Some reformed GCSEs and A levels have assessments which are reported separately on students' certificates from the grade for their written exams. Although students will have to complete these assessments, their mark for them will not be combined with the mark for their written assessment to calculate one overall grade. The certificate will indicate separately how the student performed in these assessments. This is the case in:

- GCSE (9-1) English language qualifications for the spoken language assessment;
- A level biology, physics and chemistry for the practical science assessment;
- A level geology for the practical skills assessment.

For these qualifications, the separately reported practical assessment is the most likely one from which an exemption may be requested. This is because for written assessments, there are other reasonable adjustments to enable the student to access the assessment. But as these separately reported assessments do not count towards the calculation of the overall qualification grade, it may not be possible to quantify the percentage of marks these would contribute towards the 40% calculation.

We do not consider it appropriate for a student to have an exemption from both the spoken language or practical assessment *and* one of the written papers, as this would mean a significant part of the qualification had not been assessed. The qualification would not, therefore, give a reliable indication of a student's knowledge, skills and understanding. So where a student is exempted from one of these assessments, they cannot be exempted from any other assessment for that qualification.

### Example 1

For a qualification that comprises two assessments – Assessment A worth 40% of the total marks for the qualification and Assessment B worth 60% of the total marks for the qualification – a disabled student could apply for, and be granted, an exemption from the whole of assessment A. The student could not apply to be exempted from Assessment B as this represents more than 40% of the total qualification marks.

### Example 2

If a disabled student taking a GCSE (9-1) qualification in English language could not access any part of the spoken language assessment the student could apply for an exemption from this assessment. As the student has been exempted from the

spoken language assessment, the student would not be allowed to be exempted from any other part of the qualification.

**C – An exemption to part of a Component must not be used as a reasonable adjustment. Exemptions must only be provided for whole Components where a Learner can access no part of that Component.**

### Guidance

We do not allow exemptions from parts of components. We only allow exemptions from whole components. This is to ensure fairness and consistency of approach. It prevents the possibility of awarding organisations needing to put in place complex processes which could be difficult to administer and could place the quality control and standardisation of awarding at risk.

### Example 1

A component of a history exam requires an extended written response to assess a student's knowledge and understanding of the subject. In addition, the exam also allocates a small number of marks for the quality of the student's spelling, punctuation and grammar. A disabled student who has difficulty with spelling and/or grammar and punctuation cannot be exempted from the component as the student would still be able to access the marks for the subject knowledge. It is only the marks allocated to the specific spelling, punctuation and grammar skills which the student might be unable to access.

### Example 2

A student with a hearing impairment is not able to access any part of the listening component for a modern foreign language assessment. As the student is not able to access any of the marks for this component, then providing the component was not worth more than 40% of the marks for the overall qualification, the student could request an exemption.

## Grade boundaries and pass marks

**D – Awarding organisations must not make reasonable adjustments in relation to grade boundaries, pass marks (also known as ‘cut scores’), or marks awarded for particular aspects of knowledge, skills and understanding save where those marks are awarded as a result of an exemption from a whole Component.**

### Guidance

A grade boundary or pass mark is the score that a student needs to achieve to be awarded a particular grade or to pass an assessment. Awarding organisations apply boundaries or marks consistently to all students taking a particular assessment, so that all students achieving a particular mark get the same grade. Awarding organisations make no distinction between disabled or non-disabled students when determining grade boundaries.

It is important for qualifications to give a reliable indication of a student’s knowledge, skills and understanding. Allowing changes to the standard of the qualification for disabled students would risk undermining the value of their qualifications and could place them at a disadvantage if there was seen to be a two-tier qualification system.

In addition, awarding organisations are not permitted to make changes to the number of marks awarded for particular aspects of knowledge, skills and understanding. This means that where a student has taken an assessment (ie. the student has not been granted an exemption) awarding organisations can only award marks for knowledge, skills and understanding the student has demonstrated. An awarding organisation cannot give marks for skills or knowledge the student has not shown (for example spelling, punctuation or grammar). This would risk undermining the value of their qualification and could provide a misleading indication of the student’s skills.

### Example 1

Where the A/B grade boundary is 70 marks, both a disabled student and a non-disabled student that score 69 marks must be awarded a grade B.

## Readers

**E – Where an assessment seeks (in whole or in part) to test a Learner’s reading ability, a human reader must not be used as a reasonable adjustment to allow a Learner to access marks in relation to any aspect of that reading ability save where the Learner demonstrates the relevant knowledge, skills and understanding in the assessment him or herself.**

### Guidance

A reader is a person or electronic device that can read the instructions of the question paper and the questions to the student. A reader cannot decode or interpret the paper. A reader may be used, for example, by a student with a visual impairment who is unable to read the words for themselves and who does not use Braille. Using a reader can allow a student to demonstrate their knowledge, skills and understanding, making the qualification accessible to them.

Our specification prohibits a human reader where a student’s reading ability is being assessed, either in whole, or in part. A student can access marks in respect of knowledge, skills and understanding they have demonstrated themselves.

We do not prohibit the use of electronic readers in such circumstances. We make this distinction, and refer to *reading ability (in whole or in part)*, because often, reading is not assessed in isolation. In many cases, assessments which test a student’s reading ability do so by assessing the student’s understanding of the material being read. Therefore, the type of reader (human or electronic) could impact on how an awarding organisation assesses this ability, if it provided additional information that helped the student understand the material beyond simply decoding the words.

Human readers may provide additional meaning, even where they do not depart from or elaborate on the text of the instructions or questions, for example through the tone of their voice or facial expressions. An electronic reader does not provide this same level of additional interpretation. Awarding organisations will need to ensure, in cases where they do permit electronic readers, that these do not impact on their assessment of the student’s reading ability and that students do not get marks for demonstrating reading abilities that they have not demonstrated themselves.

Under this specification, it is also prohibited, for the reasons set out above, for a student to lip read where their reading ability is being assessed. Similar to a human reader, the speaker may provide visual cues to a student that a computer or machine reader would not.

### Example 1

In a modern foreign language assessment, designed to assess a student's reading skills in the language being assessed, a human reader should not be used. This is because the human reader could help the student to understand the text, even if the student could not read it themselves, for example through facial expressions. This could prevent the awarding organisation from being able to assess the student's reading ability. In this instance, alternative reasonable adjustments such as an electronic reader could be used instead, as this would not provide the additional meaning that a human reader might.

Example 2

In a science assessment where a student has to read an account of an experiment and answer questions about what happened, which is designed to assess the student's knowledge of what happened rather than their ability to read, a human or electronic reader could be used to read the text to the student.

## Scribes/speech recognition systems

**F – Where an assessment seeks (in whole or in part) to test a Learner’s written communication skills, a human scribe, speech recognition system or other writing aid must not be used as a reasonable adjustment to allow a Learner to access marks in relation to any aspect of those written communication skills save where the Learner demonstrates the relevant knowledge, skills and understanding in the assessment him or herself.**

### Guidance

A scribe is a person who writes down or word-processes a student's dictated answers. Speech recognition technology does this electronically. Other writing aids could include systems which perform skills being assessed as part of a student's written communication skills on behalf of the student, such as the spellcheck facility on a word-processor. We prohibit the use of human scribes and speech recognition systems where they would mean a student being rewarded for skills the student had not demonstrated themselves. We do not prohibit scribes or speech recognition systems altogether. Such aids may be used where to do so does not compromise the valid assessment of the student's own skills. They may also be used in assessments that measure these skills (for example spelling or punctuation), but with students not able to access those marks if the student has not demonstrated the skills themselves. So a student using a word-processor could only access marks for spelling if the spellcheck facility had been switched off.

If, for example, marks in an assessment are allocated for correct spelling, punctuation or grammar, those marks must not be available to students who have not demonstrated those skills themselves, i.e. because a scribe or speech recognition system has spelled the words for them without the student telling them how they should be spelled.

But a student could use a scribe and access marks if, for example, the student spells out the words themselves and/or dictates the punctuation as this would be the student's spelling and punctuation being demonstrated. Likewise, if a speech recognition system was used in a way that would ensure it was the student's use of punctuation and grammar that was being assessed, the specification would not prohibit the student accessing the marks for those aspects of the assessment.

### Example 1

A disabled student is not able to write their answers in a written exam themselves. The exam awards marks for the quality of the student's spelling, punctuation and grammar. The student could:

- use a human scribe, speech recognition system or other aid and dictate their answers. In this case the student would be able to access marks for the skills they had performed, but not for those that were performed by the scribe or speech recognition system (such as spelling);
- use a human scribe, but dictate the spelling of words and the punctuation and grammar. In this scenario, the student could still be rewarded for these skills as they had demonstrated these themselves. This could be used in combination with additional time as it would take longer for the student to spell out each word.

## Alternative languages (eg. British Sign Language)

**G – Where an assessment seeks to test a Learner's knowledge of, skills in, or understanding of a particular language, the use of an alternative language – such as British Sign Language – must not be used as a reasonable adjustment where such use would prevent the Learner demonstrating the required knowledge, skills or understanding.**

### Guidance

A Sign Language Interpreter is a person who presents the questions in an assessment in sign language, without changing the meaning, adding additional information or explaining what the question requires. A Sign Language Interpreter can be used for hearing-impaired students for whom this is their normal way of working.

We do not allow any alternative language to be used as a reasonable adjustment, where specific skills in a language are being assessed. This means that in addition to British Sign Language (BSL), other languages such as Irish Sign Language are also prohibited in an assessment of, for example, English or French.

Our specification applies only when language skills are being assessed and where the use of an adjustment would prevent the student demonstrating the target language of the assessment. So whilst we prohibit BSL in the circumstances described above, we do not prohibit Sign Supported English (SSE). This is because SSE is not a language in its own right, but uses the vocabulary and word order of English, so would not alter the skills being assessed. Where SSE was being used in combination with BSL, if this would affect the skills being assessed, this would not be permitted under our specification.

Reasonable adjustments which do not alter the knowledge, skills and understanding being assessed, or the judgement by the awarding organisation of that knowledge, skills and understanding, are not prohibited. So a sign language interpreter could still be permitted, if communication more broadly as opposed to communication in a particular language is being assessed.

### Example 1

In a modern foreign language assessment, students must not give their answers in BSL, where the assessment requires the answers to be given in the foreign language being assessed. In addition, where questions or stimulus materials are written in the foreign language being assessed, these must not be translated into BSL.

### Example 2

SSE may be permitted as a reasonable adjustment for a student to demonstrate their communication skills. This is because the student would still be communicating in English and not an alternative language, so the knowledge, skills and understanding being demonstrated are not being changed.

## Practical assistants

**H – Where an assessment seeks to test a Learner’s skills in relation to carrying out practical tasks, or demonstrating practical abilities, a practical assistant must not be used as a reasonable adjustment to allow a Learner to access marks, or be awarded a result, in relation to carrying out those tasks or demonstrating those abilities save where the Learner demonstrates the relevant knowledge, skills and understanding in the assessment him or herself.**

### Guidance

A practical assistant is someone who can perform practical tasks on behalf of a student, according to the student's instructions. In written assessments, the assistant may perform tasks such as turning pages or holding a ruler in place. In practical assessments, they may perform tasks such as holding or passing equipment to a student.

We do not allow practical assistants to carry out physical tasks or demonstrate physical abilities, where those physical tasks or abilities are being assessed. To do so would affect whether the assessment provides a reliable indication of the student's knowledge, skills and understanding, as it would be the assistant demonstrating these skills, not the student.

This means that an assistant may be able to pass equipment to a student (if the ability to pick up the equipment is not being assessed, and so long as it is the student who decides which equipment should be passed), but not carry out an experiment on the student's behalf, or without instruction.

Where there are marks allocated to carrying out specific physical tasks, but these are not the only marks available, it may be possible for a student to complete the task with the aid of an assistant, but not be awarded marks that relate to the activities the assistant has performed on the student's behalf.

In qualifications where practical assessments do not form part of the calculation of the overall qualification grade, but knowledge in relation to practical activities is assessed as part of the exam<sup>9</sup>, it should be noted that a student should still participate in these, even if they are not able to access the practical assessment. This is because taking part in such assessments may still enable the student to access marks in the written assessment by demonstrating their knowledge and

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<sup>9</sup> For example the practical assessments in GCE biology, chemistry, physics and geology.

understanding, even if they have not been able to demonstrate the related practical skills.

Example 1

If a student is being assessed on their ability to play a musical instrument, a practical assistant must not play the instrument on behalf of the student.

Example 2

Where a mobility-impaired student requires assistance to turn pages in a written examination, or to hold or move equipment in a practical assessment, and these are not the skills being assessed, a practical assistant may be used to perform these tasks under the student's instruction.

## Access to texts and other materials

**I – Materials and other resources that are not normally made available to Learners during an assessment must not be provided as a reasonable adjustment where that provision would compromise the ability of the awarding organisation to make judgements on the Learner's knowledge, skills and understanding being assessed.**

### Guidance

Our specification prohibits the provision of texts and other materials (for example calculators) in circumstances where these are not normally made available to other students and providing such materials would compromise the assessment of the specific skills being assessed.

This specification applies to materials that are not already prohibited by our Conditions. In some subjects, we set out, in our Conditions, the circumstances when students should not have access to some materials in assessments. In GCSE (9-1) and GCE modern foreign language assessments for example, our Conditions require an awarding organisation to take reasonable steps to ensure that no student has access to a dictionary. Where materials are prohibited through our Conditions, this will continue to apply.

Where materials are not prohibited, but are not routinely made available by awarding organisations (which may be set out in their specifications for example), awarding organisations would need to consider whether providing such materials would compromise the assessment. Awarding organisations should consider the specific materials and how these are used in a particular assessment. Where providing such materials would compromise what is being assessed, these should not be provided if they are not provided to students routinely.

### Example

In an assessment where a student is required to recall a piece of text and then answer questions on it, a disabled student with a severe memory impairment could ask for the text to be provided (if our Conditions did not prohibit this). It would be for an awarding organisation to decide whether this was a reasonable adjustment for a particular assessment. If the awarding organisation determined that providing these materials would compromise what was being assessed, it would not be appropriate to provide these.

## Appendix 1 – Qualifications

These are the General qualifications in England covered by Section 96 of the Equality Act 2010 (as set by the Secretary of State for Education).

The Equality Act 2010 (General Qualifications Bodies) (Appropriate Regulator and Relevant Qualifications) (Amendment) (England) Regulations 2017. Statutory Instrument 2017 No. 705

1	14–19 Diploma Principal Learning
2	Advanced Extension Awards
3	Cambridge IGCSE
4	Cambridge International Certificate
5	Cambridge Pre-University Qualification
6	English for Speakers of Other Languages (ESOL)
7	Entry level certificates in GCSE subjects
8	Extended Projects
9	Foundation Projects
10	Free Standing Mathematics Qualifications
11	Functional Skills
12	General Certificate of Education Advanced level (Advanced and Advanced Subsidiary levels)
13	General Certificate of Secondary Education
14	Higher Projects
15	International Baccalaureate Diploma
16	International GCSEs (level 1/2 certificates)

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