LICENSING (SCOTLAND) ACT 2005

LICENSING STANDARDS INFORMATION PACK

FOR

LICENSEES

UPDATED: DECEMBER 2012
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1. Introduction

The Licensing (Scotland) Act 2005 (‘the 2005 Act’) regulates the sale of alcohol in Scotland and it is built around the 5 Licensing Objectives, which every licensed premises are expected to aspire to:

1. Preventing Crime and Disorder
2. Securing Public Safety
3. Preventing Public Nuisance
4. Protecting and Improving Public Health
5. Protecting Children from Harm

This information pack has been developed by the Licensing Standards Service of Argyll and Bute Council to assist premises licence holders and Designated Premises Managers (DPMs) and their staff in running their premises in compliance with the 2005 Act. The information below covers On Sales and Off Sales premises where indicated.

Also, as of 1st September 2009, Members Clubs have come under the scope of the 2005 Act and these premises are covered at Section 11 below.

This document will be updated as necessary.

2. Licensing Board Policy

The Argyll and Bute Licensing Board oversees the alcohol licensing regime in Argyll and Bute, granting licences, and taking action where necessary, to ensure compliance.

The 2005 Act requires that each Licensing Board publish a statement of its policy in relation to alcohol licensing in its area. The policy document is updated every three years and the current policy document will be updated in 2013 and will run until 2016. It is recommended that all licensees, and others who have an interest in alcohol licensing, take time to read the current Argyll and Bute Licensing Board Policy Statement 2010-2013, which can be found on the Argyll and Bute website. http://www.argyll-bute.gov.uk/law-and-licensing/licensing-standards

The new policy statement will be posted on the website in due course.

3. Licensing Standards Officers

The Licensing (Scotland) Act 2005 introduced the role of the Licensing Standards Officer (LSO), who is responsible under the Act for providing guidance and information to interested parties; ensuring compliance by licence holders; and providing a mediation service for the purpose of avoiding or resolving disputes.

The LSOs can be contacted at:
4. Licences & Statutory Notices Display

Premises Licence – Section 52(1) - (On & Off Sales)
The premises licence, or a certified copy of it (not a photocopy), \(^1\) must be kept at the premises in the custody or control of the licence holder or the premises manager. The premises licence comprises –

- the licence
- the Operating plan
- the Layout Plan\(^2\)
- the premises conditions

Summary Premises Licence – Section 52(2) - (On & Off Sales)
The summary premises licence, or a certified copy of it (not a photocopy) \(^1\), must be prominently displayed on the premises so as to be capable of being read by anyone frequenting the premises. Each page must be able to be viewed, so do not laminate or frame this licence. It is recommended that this licence is displayed in a clear plastic pocket under the supervision of the Premises Manager/Staff. The summary premises licence comprises –

- the summary licence
- the premises conditions

\(^1\) Section 55 of the 2005 Act provides that a certified copy of a premises licence or summary premises licence is a copy that has been certified as true by; the Licensing Board; or solicitor; or notary Public. This does not mean a standard photocopy. Should any amendments to these documents be required, then a variation of premises licence application must be made to the Licensing Board.

\(^2\) The layout plan should denote the alcohol licensed area and should clearly include outside drinking areas where applicable. Full details of layout plan requirements can be found in The Premises Licence (Scotland) Regulations 2007. [http://www.legislation.gov.uk/ssi/2007/452/pdfs/ssi_20070452_en.pdf](http://www.legislation.gov.uk/ssi/2007/452/pdfs/ssi_20070452_en.pdf)

Personal Licence (Section 93) - (On & Off Sales)
A personal licence holder, when working on any licensed premises, must produce their personal licence if requested to do so by a constable or licensing standards officer. This means that the personal licence holder should be in possession of the personal licence at all times when working on licensed premises.

There is no requirement to display this licence on the premises.
“Section 110” Notice – Purchase of alcohol by or on behalf of a person under 18 years - (On & Off Sales)

A notice, of at least A4 size must be displayed at all times; at each place on the premises where sales of alcohol are made; and in a position where it is readily visible to any person seeking to buy alcohol. A copy of this notice is attached for reference. It is recommended that this notice is laminated or framed.

“Schedule 3” Notice – Admission of persons under 18 years (On Sales Premises Only)
In relation to premises where alcohol is sold for consumption on the premises, there is to be displayed so that it is reasonably visible to customers entering the premises a sign of at least A4 size which states either –

a) that persons under the age of 18 years are not permitted on the premises; or
b) that such persons are permitted on the premises or on such parts of the premises as are specified on the sign.

A copy of each notice is attached for reference. It is recommended that each notice is laminated or framed.

In relation to (b) above, the details to be entered can be found in question 6 of the premises operating plan. The 2005 Act does not detail the style of this notice only its size and information required. Therefore, there is no reason why the information cannot be displayed on the premises headed note paper or similar (if available) provided the statutory information required is reproduced and easily visible.

5. Staff Training/Knowledge - (On & Off Sales)

Training Records
At any time when a person (other than a person who holds a personal licence) is working in premises, which involves that person making sales of alcohol; or where alcohol is sold on the premises for consumption on the premises, serving such alcohol to any person, there must be kept on the premises a training record which relates to that person and is in the prescribed form. A copy of the prescribed form is attached.

In Argyll and Bute it is expected that the training provided can be evidenced with the syllabus used for training being available for inspection. There are various licensing workbooks on the market which act as a training record (e.g. “Workbook for Staff of Licensed Premises” which is available from www.amazon.co.uk). These workbooks incorporate progress tests and include a training declaration (similar to the Training Record) to be signed by the trainer and staff member certifying that the training has been carried out.

Awareness of the Act
Through regular training, the premises manager will ensure that those persons working on the premises selling and/or serving alcohol will have a general awareness of how the 2005 Act affects their premises. In particular:

a) The 5 Licensing Objectives;
b) Operating Plan;
c) Layout Plan;
d) ID requirements;
e) Irresponsible Promotions; and
f) Age Verification
Therefore it is imperative that regular refresher training is undertaken. This need not be formal but should be so structured that awareness of responsibilities is maintained.

6. Management Overview - (On & Off Sales)

The Premises Manager is now responsible by law for the premises. Therefore, an effective management overview of the premises should consist of:

a) Written Management Policy – so that premises standards are maintained.
b) Written authorisation to staff to sell alcohol (see below).
c) Prevention of drunkenness.
d) Refusals Register (specimen template attached).
e) Educational Literature.
f) Drinking water availability - (on sales only).

7. Premises Security (On Sales)

The safety of staff and patrons is paramount and the Premises Manager should be fostering a welcoming atmosphere within the premises where staff feel safe at work and patrons can enjoy themselves. This will require a balancing act between openness and security and the following should form part of the premises overview:

a) Internal security – staff vigilance.
b) External Security – the role of the Premises Manager/Stewards.
c) Late night opening policy - the role of the Premises Manager/Stewards.
d) Dispersal policy - the role of the Premises Manager/Stewards.
e) PubWatch participation.

8. Children & Young Persons (On Sales)

If you have indicated in your operating plan that children and young persons will be allowed access to your premises, you must consider the following:

a) Access policy 
b) Ages policy 
c) Underage policy 
d) Policy on young children 
e) Baby Changing Facilities

3 On sales premises which admit children under 5 years are required to provide baby changing facilities (2005 Act, Schedule 3). Members clubs are exempt from this condition.

9. Age Verification Policy (On & Off Sales)

From 1st October 2011 in Scotland, the Alcohol etc. (Scotland) Act 2010 introduces a new mandatory condition for all premises licences and occasional licences requiring that there must be an age verification policy in relation to the sale of alcohol on the premises. The law has set a minimum age of 25 years for the policy where it appears to the person selling the alcohol that the customer may be under the age of 25 years.
As a result of this change in the law, customers in any premises in Scotland licensed for the sale of alcohol, including pubs, clubs, restaurants, supermarkets and convenience stores may be asked to produce identification where they appear under the age of twenty five to prove that they are over the age of eighteen and can lawfully purchase alcohol.

The www.challenge25.org website gives excellent information about the law and what you should do to make sure you comply, and provides a specimen Age Verification Policy.

10. Alcohol Authorisation (On & Off Sales)

The 2005 Act requires that every sale of alcohol is authorised either generally or specifically by the premises manager or another person who holds a personal licence. To ensure that the authorisation can be evidenced, it is recommended that the authorisation is made in writing. This is what is expected in Argyll and Bute. A written authorisation should contain the following elements:

- The person(s) authorised to sell alcohol at any particular premises should be clearly identified.
- The authorisation should specify the acts which may be carried out by the person being authorised.
- There should be an overt act of authorisation, for example, a specific written statement given to the individual being authorised.
- There should be in place sensible arrangements for the personal licence holder to monitor the activity that they have authorised on a reasonably regular basis.

A specimen template for written authorisation is attached.

11. Members Clubs

Members clubs are now incorporated into the scope of the Licensing (Scotland) Act 2005 and the majority of the information provided in this advice pack applies to such clubs.

However, Section 125 of the 2005 Act - http://www.legislation.gov.uk/asp/2005/16/section/125 details the following exceptions. The Licensing Standards Officer will be able to advise you on these:

- There is no requirement for there to be a premises manager for the premises;
- There is no requirement for the operating plan to contain information as to the premises manager;
- There is no requirement for the name and address of the premises manager to be specified in premises licence;
- There is no requirement for sales of alcohol to be authorised by a personal licence holder;
- There is no requirement for the club to provide baby changing facilities

12. Connected Persons and Interested Parties - (On & Off Sales)
The Criminal Justice and Licensing (Scotland) Act 2010 –


provides that a premises licence holder must within one month after a person becomes or ceases to be a Connected Person or Interested Party, give the appropriate licensing board notification of that fact. The notification must specify –

a) the person’s name and address; and
b) if the person is an individual, date of birth

Where the licensing board receives such notification it must give a copy to the chief constable. A premises licence holder who fails to give notification commits an offence.

Definition - Connected Person
For the purposes of the Act, a person is, in relation to a partnership, a company, a club or other body (whether incorporated or unincorporated), a connected person if the person –

1. in the case of a partnership, is a partner,
2. in the case of a company – is a director, or has control of the company,
3. in the case of a club, is an office bearer of the club,
4. any other case, is concerned in the management or control of the body

Definition - Interested Party
A person is an interested party in relation to any licensed premises if they are neither the premises licence holder nor premises manager but have an interest in the premises either as owner or tenant or have managerial control over the premises or the business taking place on the premises.

A specimen notification form is attached which can be used to inform the Licensing Board of changes to Connected Person and/or Interested Party status.

The Alcohol Etc. (Scotland) Act 2010 –


places certain responsibilities and restrictions on the sale of alcohol from Off Sales premises.

4 Off Sales premises in this context means those premises that provide off sales only, such as licensed shops or supermarkets, etc. It does not include on sales premises that also provide off sales.

These are as follows:

a) Minimum price of packages containing more than one alcoholic product
The price of such packages must be equal to or greater than the sum of the prices at which each product is for sale. This provision only applies where each alcoholic product in the package is available for sale on the premises.

Example 1: If a single bottle of wine is sold for £4.00, then a package containing two of those bottles could not be sold for less than £8.00.
Example 2: if a single can of 440ml lager is sold at £1.00, then a package containing, say, 24 x 440ml, the package could not be sold for less than £24.00

The above provisions only apply where single alcohol products (bottle or can, etc.) are sold on the premises.

b) Variation of pricing of alcoholic drinks
This provision brings Off Sales premises into line with On Sales premises in that any variation in the price of an alcoholic drink must be maintained for 72 hours from the start of the price variation.

c) Restriction on supply of alcoholic drinks free of charge or at reduced price
This provision brings Off Sales premises into line with On Sales premises in that “quantity discounts” and similar promotions are not permitted for Off Sales premises. Examples of such promotions include:

- Buy one – get one free
- Three for the price of two
- Five for the price of four, cheapest free
- 3 bottles for £10.00 (where the cost of buying the individual products is more than (£10.00)
- Buy six – get 20% off

d) Location of drinks promotions
Currently, alcohol that is displayed for consumption off the premises (off sales) can only be displayed in (1) a single area of the premises agreed between the Licensing Board and the premises licence holder and (2) a single area which is inaccessible to the public. These areas are known as “alcohol display areas”.

The 2010 Act provides that any off sales drinks promotion may take place only in the alcohol display areas or in a tasting room. Further, the 2010 Act also provides that a drinks promotion in connection with the premises cannot take place within an area extending 200 meters from the boundary of the premises as shown on the layout plan.

The display of branded non-alcoholic products (products that bear a name or image of an alcoholic product such as football tops, slippers, tea towels etc.) which are not for sale may constitute a drinks promotion and, if so, may only be displayed in alcohol display areas or in a tasting room. It will be for Licensing Boards, or the courts, to determine whether they consider the display of branded non-alcoholic products is a drinks promotion.

Newspapers, magazines and other publications which are not for sale may constitute a drinks promotion where they relate only or primarily to alcohol. In this instance, they must be in the alcohol display area. It will be for Licensing Boards, or the courts, to determine whether they consider a newspaper, magazine or other publication primarily relate to alcohol. Where newspapers, magazines and other publications that are not for sale do not relate only or primarily to alcohol, they may be displayed anywhere on the premises. Where branded non-alcoholic products and newspapers, magazines and other publications are for sale then they do not constitute a drinks promotion and so may be displayed anywhere in the premises and in the vicinity of the premises, including in alcohol display areas and any tasting room.
14. Common Compliance Failures and Consequences (On & Off Sales)

Below is a ready-reckoner which gives details of the action that can be taken where a premises fails to comply with the provisions of the 2005 Act and associated legislation.

Full details of this aspect of the legislation can obtained from the licensing standards officers.

Appendices/…
This notice is displayed in accordance with the provisions of Section 110 of the Licensing (Scotland) Act 2005

It is an offence for a person under the age of 18 to buy or attempt to buy alcohol on these premises.

It is also an offence for any other person to buy or attempt to buy alcohol on these premises for a person under 18.

When there is doubt as to whether a person attempting to buy alcohol on these premises is aged 18 or over, alcohol will not be sold to the person except on production of evidence showing the person to be 18 or over.
LICENSING (SCOTLAND) ACT 2005

[Insert Name & Address of Premises]

This notice is displayed in accordance with the premises licence mandatory conditions contained in Schedule 3 of the Licensing (Scotland) Act 2005 and incorporated by virtue of Section 27

PERSONS UNDER THE

AGE OF EIGHTEEN

YEARS ARE NOT

PERMITTED WITHIN

THESE PREMISES
**LICENSING (SCOTLAND) ACT 2005**
**STATUTORY NOTICE**

This notice is displayed in accordance with the premises licence mandatory conditions contained in Schedule 3 of the Licensing (Scotland) Act 2005 and incorporated by virtue of Section 27

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LICENSING (SCOTLAND) ACT 2005
SCHEDULE 3, PARAGRAPH 6

TRAINING OF STAFF - TRAINING RECORD

[Name ________________________________]

The Act

Schedule 3, Paragraph 6:
(1) No person (other than a person who holds a personal licence) is to work in the premises in the
capacity mentioned in sub-paragraph (2) unless that person has complied with such requirements
as to the training of staff as may be prescribed for the purposes of this paragraph.

(2) That is a capacity (whether paid or unpaid) which involves the person – (a) making
sales of alcohol, or (b) where alcohol is sold on the premises for consumption on the premises,
serving such alcohol to any person.

DECLARATION

TRAINEE

[Name ________________________________]
I [____________________________] confirm that I have received the training
required by the Licensing (Training of Staff) (Scotland) Regulations 2007.

[Signed ________________________________]

TRAINER

[Name ________________________________]
I [____________________________] confirm that I have provided the above
named member of staff with the training required under the Licensing (Training of Staff) (Scotland)
Regulations 2007 on [Date or dates ____________________________].

[Signed ________________________________]

Where signatory is the holder of a Personal Licence issued under the Licensing (Scotland) Act 2005,
please insert the number and the name of Licensing Board which issued the licence here]

[__________________________________________]

Where signatory is a person other than the holder of a Personal Licence described above, please
provide details of the qualification held and accredited by the Scottish Qualifications Authority for the
purposes of regulation 2(b) of the Licensing (Training of Staff) (Scotland) Regulations 2007.

The name of any company by which the person is employed to provide training should also be given

[__________________________________________]
This authorisation to sell alcohol has been written in accordance with the premises licence mandatory conditions contained in Schedule 3 (paragraph 5) of the Licensing (Scotland) Act 2005 and incorporated by virtue of section 27

“I hereby authorise all staff, trained under The Licensing (Training of Staff) (Scotland) Regulations 2007, to sell alcohol, on these premises, on my behalf, and in conformity with the Licensing (Scotland) Act 2005.”

Premises Manager (DPM)
Personal Licence Holder No:

- The Premises Manager will make all staff trained in the selling of alcohol aware of this authorisation.
- The Premises Manager will maintain an overview of this authorisation and amend/update as necessary.
- The Premises Manager will retain this authorisation with staff training records.

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<th>STAFF NAME (Print)</th>
<th>STAFF SIGNATURE</th>
<th>PLH / DPM SIGNATURE</th>
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LICENSING (SCOTLAND) ACT 2005
REFUSALS REGISTER

[Insert Name & Address of Premises]

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<th>Date</th>
<th>Time</th>
<th>Product</th>
<th>Name or Description of Person (If you are not comfortable asking for a name, then don't)</th>
<th>Comments</th>
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The Clerk to the Board
Argyll and Bute Licensing Board
Kilmory
LOCHGILPHEAD
Argyll
PA31 8RT

Dear Clerk,

THE CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010, SECTION 184 – PREMISES LICENCES: CONNECTED PERSONS AND INTERESTED PARTIES

NAME OF CLUB:

As required by the above Act, and Section 40A of the Licensing (Scotland) Act 2005, I hereby give notice on the attached forms of a change to the ¹Connected Persons status of the above Club. I confirm that this notification has been made within ²one month of the change.

I have also provided details of the office bearer who will act as contact person for the Licensing Board and Licensing Standards and include a copy of the most recent Club Constitution.

Yours faithfully,

Secretary

¹ A Connected Person in relation to a licensed club is an office bearer.
² Notification must be made to the licensing board within one month of a person becoming or ceasing to be a connected person. Failure by the premises licence holder to supply this notice to the Licensing Board is an offence.
CONNECTED PERSONS NOTIFICATION –
PERSONS *COMMENCING* AS CONNECTED PERSONS

NAME OF CLUB

ADDRESS

Postcode:

CLUB CONTACT: (liaison officer for the Licensing Board and Licensing Standards)

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<th>Contact Tel. No:</th>
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<td>Contact e-mail:</td>
<td>Position in Club:</td>
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**Persons Commencing As Connected Persons**

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¹ A Connected Person in relation to a licensed club is an office bearer.
² Notification must be made to the licensing board within one month of a person becoming or ceasing to be a connected person. Failure by the premises licence holder to supply this notice to the Licensing Board is an offence.
CONNECTED PERSONS NOTIFICATION –
PERSONS **CEASING** AS CONNECTED PERSONS

**NAME OF CLUB**

**ADDRESS**

Postcode:

**CLUB CONTACT:** (liaison officer for the Licensing Board and Licensing Standards)

<table>
<thead>
<tr>
<th>Name:</th>
<th>Contact Tel. No:</th>
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</thead>
<tbody>
<tr>
<td>Address:</td>
<td>Postcode:</td>
</tr>
<tr>
<td>Contact e-mail:</td>
<td>Position in Club:</td>
</tr>
</tbody>
</table>

**Persons Ceasing As Connected Persons**

<table>
<thead>
<tr>
<th>Position in Club</th>
<th>Name</th>
<th>Home Address &amp; Tel No.</th>
<th>Date of Birth</th>
<th><strong>Date of Change</strong></th>
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<tr>
<th>Compliance Failure</th>
<th>What is required</th>
<th>Criminal Offence or Breach of Condition</th>
<th>Consequences?</th>
<th>Do I comply?</th>
</tr>
</thead>
<tbody>
<tr>
<td>No premises licence kept on premises</td>
<td>Premises Licence must be kept on premises and available for inspection</td>
<td>Offence</td>
<td>£1000 fine (level 3 Standard Scale)</td>
<td></td>
</tr>
<tr>
<td>No summary premises licence displayed on premises</td>
<td>Summary Premises Licence must be displayed on premises and available for inspection</td>
<td>Offence</td>
<td>£1000 fine (level 3 Standard Scale)</td>
<td></td>
</tr>
</tbody>
</table>
| No personal licence on premises                    | Personal licence holder must be in possession of licence when working on premises and the licence must be available for inspection.  

*(Not applicable to licensed clubs)* | Offence                                | £500 fine (level 2 Standard Scale)                                           |              |
| No “Section 110” Notice displayed                  | Statutory notice stating alcohol will not be sold to persons under 18 years. Should be displayed at each point of sale | Offence                                | £1000 fine (level 3 Standard Scale)                                           |              |
| No Designated Premises Manager (DPM)               | Licensed premises must have a named DPM. Alcohol cannot be sold without a DPM being in place  

*(Not applicable to licensed clubs)* | Breach of condition | Review of premises licence and appearance before licensing board when sanctions can be imposed |              |
| No Children and Young Person (C&YP) Notice         | There are two styles of statutory notice. One of the notices should be displayed at each public entrance to the premises. The premises operating plan details C&YP access | Breach of condition | Review of premises licence and appearance before licensing board when sanctions can be imposed |              |
| No staff training                                  | All staff who are not personal licence holders must be trained prior to their first sale of alcohol on the premises | Breach of condition | Review of premises licence and appearance before licensing board when sanctions can be imposed |              |
| No staff training records                          | Training records must be kept on the premises for all members of staff selling alcohol. Training Declaration must be completed. | Breach of condition | Review of premises licence and appearance before licensing board when sanctions can be imposed |              |
| No Alcohol Authorisation                           | Designated Premises Manager or other Personal Licence holder must authorise staff to sell alcohol on the premises.  

*(Not applicable to licensed clubs)* | Breach of condition | Review of premises licence and appearance before licensing board when sanctions can be imposed |              |
| No drinking water available                        | On sales premises only – drinking water should be available free of charge | Breach of condition | Review of premises licence and appearance before licensing board when sanctions can be imposed |              |
| No baby changing facilities                       | Baby changing facilities must be available in those premises admitting children under 5 years of age | Breach of condition | Review of premises licence and appearance before licensing board when sanctions can be imposed |              |
| Non-payment of annual and recurring fees           | Fees to be paid within timescales set by licensing board | Breach of condition | Review of premises licence and appearance before licensing board when sanctions can be imposed |              |
**LICENSING (SCOTLAND) ACT 2005**  
**COMMON COMPLIANCE FAILURES**  
This ready-reckoner should assist you in complying with legislation

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</table>
| Not Notifying Board of change of Connected Persons or Interested Parties           | Any change must be notified within one month of the change.  
*Contact LSO for full details of what constitutes a connected person or interested party.* | Offence                                                                | £500 fine (level 2 Standard Scale)     |              |

**ALCOHOL ETC (SCOTLAND) ACT 2010**  
**COMMON COMPLIANCE FAILURES**  
This ready-reckoner should assist you in complying with legislation

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<tbody>
<tr>
<td>No Age Verification policy</td>
<td>As of 1st October 2011 all licensed premises are required to have in place an Age Verification policy – <a href="http://www.challenge25.org">www.challenge25.org</a></td>
<td>Breach of Condition</td>
<td>Review of premises licence and appearance before licensing board when sanctions can be imposed</td>
<td></td>
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