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Supplement

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The following are published in this Supplement —

**Fisheries (Conservation and Management) (Amendment) Ordinance 2022 (No 1 of 2022);
Administration of Estates (Amendment) Ordinance 2022 (No 2 of 2022); and
Fisheries (Prescribed Percentages) Regulations 2022 (SR&O No 1 of 2022).**

ELIZABETH II



FALKLAND ISLANDS

DAVID PAUL MORGAN
Acting Governor.

Fisheries (Conservation and Management) (Amendment) Ordinance 2022

(No. 1 OF 2022)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Amendment of Fisheries (Conservation and Management) Ordinance 2005
4. Section 58 amended – Domination of fishing sector
5. Validation of aggregation limits

ELIZABETH II



FALKLAND ISLANDS

DAVID PAUL MORGAN
Acting Governor.

Fisheries (Conservation and Management) (Amendment) Ordinance 2022

(assented to: 25 January 2022)
(commencement: on publication)
(published: 31 January 2022)

AN ORDINANCE

To amend the Fisheries (Conservation and Management) Ordinance 2005.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Fisheries (Conservation and Management) (Amendment) Ordinance 2022.

2. Commencement

This Ordinance comes into force on publication in the *Gazette*.

3. Amendment of Fisheries (Conservation and Management) Ordinance 2005

This Ordinance amends the Fisheries (Conservation and Management) Ordinance 2005.

4. Section 58 amended – Domination of fishing sector

(1) This section amends section 58.

(2) In —

(a) subsection (1) —

- (i) in paragraph (b) (definition of “divest”), after “Individual Transferable Quota” in each place it appears, insert “or Catch Entitlement”;
- (ii) replace paragraph (c) (definition of “the prescribed percentage”) with —
 - “(c) “**prescribed percentage**” means such percentage as is for the time being prescribed by regulations for the purpose of this section of —
 - (i) the total Individual Transferable Quota of a quota management stock;
 - (ii) the total Individual Transferable Quota of a fishery;
 - (iii) Catch Entitlement generated in relation to the Individual Transferable Quota of a quota management stock; or
 - (iv) the total Catch Entitlement generated in relation to the Individual Transferable Quota of a fishery; and”;
- (b) subsection (2) —
 - (i) after “in relation to a stock” insert “or a fishery”;
 - (ii) after “Individual Transferable Quota” in the first and second place it appears insert “or Catch Entitlement”;
- (c) subsection (3), after “Individual Transferable Quota” in each place it appears, insert “or Catch Entitlement”;
- (d) subsection (3A) —
 - (i) in the introductory words, after “Individual Transferable Quota” insert “or Catch Entitlement”;
 - (ii) in paragraph (a), after “Ownership Register” insert “or of the Catch Entitlement Register”;
 - (iii) in paragraph (b), after “Ownership Register” insert “or of the Catch Entitlement Register”;
- (e) subsection (4) replace paragraphs (a) and (b) with —
 - “(a) serve upon that person or those persons a further notice —
 - (i) notifying that so much of the Individual Transferable Quota or Catch Entitlement under its or their ownership or control as exceeds the prescribed percentage (“the excess”) is forfeit to the Crown pursuant to subsection (5);
 - (ii) stating the amount of Individual Transferable Quota or Catch Entitlement concerned;

- (b) register in the relevant Part of the Individual Transferable Quota Ownership Register or the Catch Entitlement Register the transfer in respect of so much of the Individual Transferable Quota or Catch Entitlement as is not forfeit to the Crown pursuant to subsection (5) or, as the case may be, amend those Registers so as to show ownership by the owner in question of only so much Individual Transferable Quota or Catch Entitlement as is not forfeit under subsection (5).”.

5. Validation of aggregation limits

Any aggregation limits that were applied before the commencement of the Fisheries (Conservation and Management) (Amendment) Ordinance 2022 in respect of fisheries or Catch Entitlement are deemed to be valid as if they had been permitted under section 58.

Passed by the Legislature of the Falkland Islands on 20 January 2022.

CHERIE YVONNE CLIFFORD,
Clerk of the Legislative Assembly.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Assembly and is found by me to be a true and correctly printed copy of the said Bill.

CHERIE YVONNE CLIFFORD,
Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

DAVID PAUL MORGAN
Acting Governor.

Administration of Estates (Amendment) Ordinance 2022

(ORDINANCE No. 2 OF 2022)

ARRANGEMENT OF PROVISIONS

Section

PART 1 - Introductory

1. Title
2. Commencement

PART 2 - Amendment of Administration of Estates Ordinance 1949

3. Amendment of Administration of Estates Ordinance 1949
4. Section 2 amended (interpretation)
5. New section 2A inserted
6. Section 5 amended (bonds)
7. Section 6 replaced (caveats)
8. Section 7 amended (proof of will in solemn form)
9. Section 8 amended (absentee personal representative)
10. Section 10 amended (service of citations, etc)
11. Section 11 amended (records)
12. New section 11A inserted
13. Section 12 amended (witnesses)
14. New section 12A inserted
15. Section 23 amended (rules of court)
16. Schedules 1 and 2 inserted

PART 3 - Miscellaneous amendments

Consequential amendments to Law Revision and Publication Ordinance 2017

17. Amendment of Law Revision and Publication Ordinance 2017

18. Part 1 of Schedule 1 of Law Revision and Publication Ordinance amended (primary legislation)
19. Part 2 of Schedule 1 of Law Revision and Publication Ordinance amended (secondary legislation)

Amendments to Regulations

20. Administration of Estates Rules 1949 amended
21. Registration Regulations 1949 amended

Schedule - Amendment of Schedule 1 to the Administration of Estates Ordinance 1949

ELIZABETH II



FALKLAND ISLANDS

DAVID PAUL MORGAN
Acting Governor.

Administration of Estates (Amendment) Ordinance 2022

(assented to: 25 January 2022)
(commencement: upon publication)
(published: 31 January 2022)

AN ORDINANCE

To provide for a depository for wills of living persons and for non-contentious probate and administration of estates by the Supreme Court and connected matters.

ENACTED by the Legislature of the Falkland Islands —

PART 1 - Introductory

1. Title

This Ordinance is the Administration of Estates (Amendment) Ordinance 2022.

2. Commencement

This Ordinance comes into force on publication in the *Gazette*.

PART 2 - Amendment of Administration of Estates Ordinance 1949

3. Amendment of Administration of Estates Ordinance 1949

This Part amends the Administration of Estates Ordinance 1949.

4. Section 2 amended (interpretation)

In section 2, after the definition of “**court**” insert —

““**grant**” means a grant of probate or letters of administration;

“**interested person**” means a person who has an interest in the estate of the deceased;”.

5. New section 2A inserted

After section 2 insert —

“2A. Wills depository

(1) The Central Registry is a depository for the safe custody of the wills of living persons and any person may deposit a will in the Central Registry on payment of the prescribed fee. [*Section 126 1981 c.54*]

(2) The Wills (Deposit for Safe Custody) Regulations 1978 (SI 1978 No. 1724), with the exception of regulations 3(1) and 6, apply in the Falkland Islands subject to the modifications set out in Schedule 1.

(3) In this section “**Central Registry**” has the meaning in section 5 of the Registration Ordinance 1949.”.

6. Section 5 amended (bonds)

In section 5(2), replace “persons interested” with “interested persons”.

7. Section 6 replaced (caveats)

Replace section 6 with —

“6. Caveats and citations

(1) This section applies where —

- (a) a caveat is entered before a grant is made; or
- (b) a citation is issued before or after a grant is made.

(2) All interested persons must be summoned to appear before court to show cause why, in the case of a caveat, the grant should not issue or, in the case of a citation, the action specified in the citation should be taken.

(3) The court may make such order as is fair and reasonable in all the circumstances of the case.

(4) When any interested person fails to appear, the court may, after proof of service, proceed as if the proceedings were *ex parte* or adjourn on such terms as it may direct.

(5) An interested person aggrieved by an order under this section may appeal to the Supreme Court within 21 days.”.

8. Section 7 amended (proof of will in solemn form)

In section 7, replace “person interested in a will” with “interested person”.

9. Section 8 amended (absentee personal representative)

In section 8 —

- (a) in subsection (1), replace “Any person interested in the estate of a deceased person” with “Any interested person”; and
- (b) in subsection (2) replace “section 6(1)” with “section 6(2)”.

10. Section 10 amended (service of citations, etc)

In section 10, after “Citations,” insert “caveats,”.

11. Section 11 amended (records)

In section 11 replace “Registrar” with “Registrar of the Supreme Court”.

12. New section 11A inserted

After section 11 insert —

“11A. Inspection of records

- (1) All wills and other documents relating to the estate of a deceased person are under the control of the court from the date on which the first application is made to the court relating to that estate, whether to enter a caveat, issue a citation or for a grant of probate or letters of administration.
- (2) The Registrar General must deliver up any documents deposited under section 2A to which subsection (1) applies immediately on receiving a request from the Registrar of the Supreme Court.
- (3) Subject to subsection (1) and any rules made under, or applying by virtue of, section 23, any person may inspect such documents relating to the estate of a deceased person at the court by appointment during normal business hours on payment of such fee as may be prescribed.
- (4) Subject to the approval of the court, the Registrar of the Supreme Court may provide a certified copy of any will or part of will or of a grant to any person on payment of the prescribed fee.”.

13. Section 12 amended (witnesses)

In section 12(1) after “any person whom it thinks fit to examine,” insert “whether or not any legal proceedings are pending,”.

14. New section 12A inserted

After section 12 insert —

“12A. Orders for inventory and account

- (1) The court may on its own motion or on application by an interested person, order the executor or administrator of an estate (“**the grantee**”) to provide an inventory of the assets that were part of, or have been brought into, the estate and to account for payments or transfers out of the estate of any monies or other property.

(2) The court may, if not satisfied that a grantee is administering an estate efficiently or expeditiously, by order make a grant in respect of the estate to another interested person or the Official Administrator either in addition to, or instead of, the grantee and in the latter case must revoke the original grant.

(3) A grantee may appeal to the Supreme Court against an order under this section within 21 days of the date of the order in question.”.

15. Section 23 amended (rules of court)

In section 23 insert the following subsections, the existing provision becoming subsection (1) —

“(2) Rules of court may make further or other provision for the safe custody of the wills of living persons.

(3) The Non-Contentious Probate Rules 1987 (SI No. 1987/2024) apply in the Falkland Islands with the exceptions in paragraph 1 and subject to the modifications in paragraph 2, of Schedule 2.”.

16. Schedules 1 and 2 inserted

After section 23 insert —

“SCHEDULE 1 - MODIFICATION OF THE WILLS (DEPOSIT FOR SAFE CUSTODY) REGULATIONS 1978

section 2A

1. In subregulation (2) of regulation 2 (interpretation) —

- (a) replace the definition of “**prescribed**” with ““**prescribed**” means prescribed by rules made under section 23 of the Administration of Estates Ordinance 1949;”;
- (b) omit the definition of “**the principal registry**”;
- (c) replace the definition of “**registrar**” with ““**registrar**” means the Registrar General appointed for the purposes of section 4 of the Registration Ordinance 1949;”;
- (d) replace the definition of “**registry**” with ““**registry**” means the Central Registry within the meaning of the Registration Ordinance 1949;” and
- (e) omit the definition of “**the Senior Registrar**”.

2. In the Regulations, wherever a term listed in the left-hand column of the table appears, replace it with the corresponding term in the right-hand column —

Term	Substitute term
principal registry	registry
section 172 of the Act	section 2A of the Administration of Estates Ordinance 1949

Senior Registrar	Registrar
a registrar of the principal registry	the registrar

SCHEDULE 2 - MODIFICATION OF THE NON-CONTENTIOUS PROBATE RULES 1987

section 23

1. Rule 2(2), rules 3 and 4, rule 5(7), (9) and (10), rules 5ZA, 5A, 7, 8 and 23, rule 39(2), (6) and (7), rules 40 to 43, rule 47(4) to (7), rule 48(2), rules 49, 50, 57, 60, 62 to 64, 66, and 67 and Schedule 1, are excepted from application to the Falkland Islands.
2. The Rules listed in the left-hand column of the table are subject to the modifications specified in the right-hand column —

Rule	Modification
2 (interpretation)	<p>(1) In the definition of “authorised officer” replace “the President” with “the judge”.</p> <p>(2) Replace the definition of —</p> <p>“the Crown” with ““the Crown” means the Crown in right of the Falkland Islands;” and</p> <p>“registry” with ““registry” means registry of the Supreme Court;”.</p> <p>(3) Omit the definitions of “district judge”, “judge”, “online portal”, “probate practitioner”, “registrar”, “the senior district judge” and “the Treasury Solicitor”.</p> <p>(4) In the definition of “personal applicant” omit “or probate practitioner”.</p> <p>(5) Insert after paragraph (1) —</p> <p>“(1A) In these Rules, references to —</p> <p>“district judge”, “judge” “registrar” or “the senior district judge” are to be interpreted as references to a judge of the Supreme Court appointed under section 88 of the Constitution or an acting judge appointed under section 89 of the Constitution.”; and</p> <p>“the Treasury Solicitor” are to be interpreted as references to the Attorney General.</p>

5(3)(b) (personal applications)	Omit “or probate practitioner”.
30 (grants where the deceased died domiciled outside England and Wales)	<p>(1) In the heading to the rule and in paragraph (1) replace “England and Wales” with “the Falkland Islands”.</p> <p>(2) In paragraph (3) —</p> <p>(a) in sub-paragraph (a)(i) omit “if the will is in the English or Welsh language”; and</p> <p>(b) in sub-paragraph (b) replace “England and Wales” with “the Falkland Islands” in both cases where it appears.</p>
31 (grants to attorneys)	In paragraph (3), replace “the Mental Capacity Act 2005” with “the Assessment and Safeguarding of Adults Ordinance 2020.”.
32 (grants on behalf of minors)	<p>Replace paragraph (1) with —</p> <p>“(1) Subject to paragraph (1A), where a person to whom a grant would otherwise be made is a minor, administration for the minor’s use and benefit until the minor attains 18 years of age must, unless otherwise directed by the court, be granted to a person who has or is deemed to have parental responsibility for the minor.</p> <p>(1A) Where the minor is sole executor and has no interest in the residuary estate of the deceased, administration for the use and benefit of the minor must be granted to the person entitled to the residuary estate, unless otherwise directed by the court.”.</p>
35 (grants in case of lack of mental capacity)	<p>(1) In paragraph (1), omit “within the meaning of the Mental Capacity Act 2005 referred to in paragraph (2) below”.</p> <p>(2) Omit “within the meaning of the Mental Capacity Act 2005” in —</p> <p>(a) the introductory words and in sub-paragraph (b) of paragraph (2); and</p> <p>(b) paragraph (4).</p> <p>(3) After paragraph (5) insert —</p> <p>“(6) In this rule, the expression “person who lacks capacity” has the meaning in section 4 of the Assessment and Safeguarding of Adults Ordinance 2020.”.</p>

39 (resealing under Colonial Probates Acts 1892 and 1927)	<p>(1) Replace the heading with “Resealing under the Administration of Estates Ordinance 1949”.</p> <p>(2) In paragraph 1, replace “the Colonial Probates Acts 1892 and 1927” with “the Administration of Estates Ordinance 1949” and “those Acts” with “that Ordinance”.</p> <p>(3) In paragraph 5, replace “subsection (1) of section 2 of the Colonial Probates Acts 1892” with “section 22(1) of the Administration of Estates Ordinance 1949”.</p>
44 (caveats)	<p>(1) In paragraph (1) omit “; provided that ... caveat is entered”.</p> <p>(2) Replace paragraph (2) with —</p> <p>“(2) Any person wishing to enter a caveat (“the caveator”) may do so by giving notice in writing to the court.”.</p> <p>(3) Omit paragraphs (3) to (10), (12), (13) and (15).</p> <p>(4) Replace paragraph (11) with —</p> <p>“(11) A caveator may withdraw the caveat at any time by giving notice to the court and any interested person.”.</p> <p>(5) In paragraph (14), replace “under paragraphs (7) or (12) of this rule or under rule 45(4) or rule 46(3)” with “either by order of the judge or on withdrawal”.</p>
45 (probate actions)	In paragraph (1), omit “being advised by the court concerned of the”.
46 (citations)	<p>Replace rule 46 with —</p> <p>“46 (1) Any person who has an interest in the estate of the deceased (“the citor”) may apply to the court to issue a citation against one or more executors of the estate (“the citee”).</p> <p>(2) An application to issue a citation must include —</p> <p>(a) a statement of the facts and matters relied on in support of the application;</p> <p>(b) the names and contact details of the citees and any other interested persons known to the citor; and</p> <p>(c) the action that the citor considers should be taken to ensure the effective administration of the deceased’s estate,</p>

	<p>and be supported by a statement of truth.</p> <p>(3) The citor must serve the citation on the citees unless the court otherwise directs and all other interested persons must be notified of the citation.</p> <p>(4) A citation may be withdrawn with the permission of the court.”.</p>
65 (appeals from district judges or registrars)	<p>(1) In paragraph (1) replace “or registrar shall be made ... to a judge” with “lies to the Court of Appeal”.</p> <p>(2) Omit paragraphs (2) and (3).</p>
68 (application to pending proceedings)	<p>Replace “come into force” with “are applied in the Falkland Islands”.</p>

PART 3 – Miscellaneous amendments

Consequential amendments to Law Revision and Publication Ordinance 2017

17. Amendment of Law Revision and Publication Ordinance 2017

Sections 18 and 19 amend Schedule 1 of the Law Revision and Publication Ordinance 2017.

18. Part 1 of Schedule 1 of Law Revision and Publication Ordinance amended (primary legislation)

In Part 1 of Schedule 1 —

- (a) in the reference to the Administration of Justice Act 1982, in column 2 replace “17 to 25” with “17 to 22”;
- (b) in the reference to the Senior Courts Act 1981 —
 - (i) after paragraph 2 in column 2 insert —

“3. Sections 106, 107, 110, 112 to 119 (**except** sections 115(4) and 119(1)), 121 and 128.” and
 - (ii) after paragraph 2 in column 3 insert —

“2A. The following provisions of the Act are modified by —

 - (a) in section 106, replacing “a district probate registrar” with “the judge”;

- (b) in section 107 omitting “out of the Principal Registry or any district probate registry” and replacing “registrar” with “judge”;
- (c) in the heading to section 110, replacing “Commissioners of the Inland Revenue” with “Commissioner of Taxation”;
- (d) in section 110, replacing —
 - (i) “the President of the Family Division” and “President” with “judge”;
 - (ii) “the Commissioners” in each place where it appears with “Commissioner of Taxation”; and
 - (iii) “the Principal Registry and every district probate registry shall” with “the court must”; and
- (e) in section 121(3), replacing “the Colonial Probates Acts 1892 and 1927” with “the Administration of Estates Ordinance 1949”.

19. Part 2 of Schedule 1 of Law Revision and Publication Ordinance amended (secondary legislation)

In Part 2 of Schedule 1, insert the following rows in the appropriate alphabetic sequence —

“Non-Contentious Probate Rules (SI 1987/2024)	1987	Whole Rules except rule 2(2), rules 3 and 4, rule 5(7), (9) and (10), rules 5ZA, 5A, 7, 8 and 23, rule 39(2), (6) and (7), rules 40 to 43, rule 47(4) to (7), rule 48(2), rules 49, 50, 57, 60, 62 to 64, 66, and 67 and Schedule 1	The Rules are subject to the modifications specified in paragraph 2 of the Schedule to the Administration of Estates Ordinance 1949.
Wills (Deposit for Safe Custody) Regulations (SI 1978/1724)	1978	Whole Regulations except regulations 3(1) and 6	The Regulations are subject to the modifications specified in paragraph 1 of the Schedule to the Administration of Estates Ordinance 1949.”.

Amendments to Regulations

20. Administration of Estates Rules 1949 amended

In the Administration of Estates Rules 1949 —

- (a) revoke rule 2 and Schedule 1; and
- (b) in Schedule 2 —

(i) replace items 2 and 3 with —

“2. For the entry of a caveat or issue of a citation under section 6 of the Administration of Estates Ordinance 1949 £21

3. For inspection of records under section 11A of the Administration of Estates Ordinance 1949 £10”;

(ii) replace item 6 with —

“6. For depositing a will in the Central Registry under section 2A of the Administration of Estates Ordinance 1949 £10.50”.

21. Registration Regulations 1949 amended

In Schedule 2 to the Registration Regulations 1949, omit item 6.

Passed by the Legislature of the Falkland Islands on 20 January 2022.

CHERIE YVONNE CLIFFORD,
Clerk of the Legislative Assembly.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Assembly and is found by me to be a true and correctly printed copy of the said Bill.

CHERIE YVONNE CLIFFORD,
Clerk of the Legislative Assembly.

SUBSIDIARY LEGISLATION

Fisheries (Prescribed Percentages) Regulations 2022

(No. 1 OF 2022)

ARRANGEMENT OF PROVISIONS

Regulation

1. Title
2. Commencement
3. Prescribed percentages
4. Revocation

Schedule - Prescribed percentages (aggregation limit)

SUBSIDIARY LEGISLATION

Fisheries (Prescribed Percentages) Regulations 2022

(made: 25 January 2022)

(commencement: on publication)

(published: 31 January 2022)

I make the following regulations under sections 58 and 223 of the Fisheries (Conservation and Management) Ordinance 2005 on the advice of Executive Council.

1. Title

These regulations are the Fisheries (Prescribed Percentages) Regulations 2022.

2. Commencement

These regulations come into force on publication in the *Gazette*.

3. Prescribed percentages

For the purposes of section 58(2) of the Fisheries (Conservation and Management) Ordinance 2005—

- (a) the percentage appearing in the second column of the Schedule in relation to a fishery mentioned in the first column of that Schedule is the prescribed percentage (“the aggregation limit”) of Individual Transferable Quota in relation to that fishery; and
- (b) the percentage appearing in the third column of the Schedule in relation to a fishery mentioned in the first column of that Schedule is the prescribed percentage (“the aggregation limit”) of Catch Entitlement in relation to that fishery.

4. Revocation

The Fisheries (Aggregation Limits) Regulations 2005 are revoked.

SCHEDULE - PRESCRIBED PERCENTAGES (AGGREGATION LIMIT)

regulation 3

Fishery	Individual Transferable Quota	Catch Entitlement
Finfish - All finfish with the exception of Skate (<i>Rajidae</i>) and Toothfish (<i>Dissostichus eleginoides</i>)	40%	50%
Scallops - <i>Zygochlamys patagonica</i>	100%	100%
Squid (Summer) and Squid (Winter) - Falkland Calamari <i>Doryteuthis gahi</i>	30%	50%
Skate - All species of Skate (<i>Rajidae</i>)	100%	100%
Squid and Restricted Finfish - <i>Illex argentinus</i> , <i>Martialia hyadesi</i> , all Finfish species except Hake (<i>Merluccius spp.</i>), Skate (<i>Rajidae</i>) and Toothfish (<i>Dissostichus eleginoides</i>)	30%	50%
Restricted Finfish - Pelagic - Southern Blue Whiting (<i>Micromesistius australis</i>) and Hoki (<i>Macruronus magellanicus</i>)	100%	100%
Restricted Finfish - All finfish species except Hake (<i>Merluccius spp.</i>), Skate (<i>Rajidae</i>) and Toothfish (<i>Dissostichus eleginoides</i>)	50%	100%
Toothfish - Longline - Toothfish (<i>Dissostichus eleginoides</i>)	100%	100%

Made 25 January 2022

D. P. MORGAN,
Acting Governor.

EXPLANATORY NOTE

(not forming part of these regulations)

These Regulations are made under sections 58 and 223 of the Fisheries (Conservation and Management) Ordinance 2005. They replace the Fisheries (Aggregation Limits) Regulations 2005. The reason for prescribing percentages (aggregation limits) is to prevent domination in the market which could result from a grant or disposal of Individual Transferable Quota or Catch Entitlement.

The major change in these Regulation is that the prescribed percentages (aggregation limits) are linked to fisheries rather than stock (species). The percentages are prescribed in relation to Individual Transferable Quota and Catch Entitlement.

The Schedule to the Regulations sets out the respective prescribed percentages (aggregation limits) in respect of the fisheries listed in the first column.

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