

1994—No. 431

**MEAT INDUSTRY ACT 1978—REGULATION**

(Meat Industry (Elections) Regulation 1994)

NEW SOUTH WALES



*[Published in Gazette No. 108 of 26 August 1994]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Meat Industry Act 1978, has been pleased to make the Regulation set forth hereunder.

I. R. CAUSLEY, M.P.,  
Minister for Agriculture and Fisheries.

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**PART 1—PRELIMINARY**

**Citation**

1. This Regulation may be cited as the Meat Industry (Elections) Regulation 1994.

**Commencement**

2. This Regulation commences on 1 September 1994.

**Definitions**

3. (1) In this Regulation:

“**calling of the ballot**” for an election means the date on which a notice is first published under clause 16 for the election;

“**close of enrolments**” for an election means the final time and date fixed by the returning officer for the close of enrolments in the election;

“**close of exhibition of the roll**” for an election means the final time and date fixed by the returning officer for the close of exhibition of the roll in the election;

“**close of nominations**” for an election means the final time and date fixed by the returning officer for the close of nominations in the election;

“**close of the ballot**” for an election means the final time and date fixed by the returning officer for the close of the ballot in the election;

“**election**” means the election of an elected member of the Authority for the purposes of section 45 (1) (e) of, or clause 10 (2) of Schedule 2 to, the Act;

“**electoral district**” means an electoral district constituted under clause 4;

“**final roll**” for an election means the roll of producers of abattoir animals prepared for the election by the returning officer under Part 5;

“**preliminary roll**” for an election means the roll for the election with which the returning officer is provided under clause 15;

“**Secretary**” means the Secretary to the Authority;

“**the Act**” means the Meat Industry Act 1978.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

### **Constitution of electoral districts**

4. (1) There are to be 5 electoral districts, one for each elected member.

(2) The Minister may, by order published in the Gazette, constitute land described in the order as an electoral district and may, by the same or a subsequent order so published, give a name to the electoral district.

### **Returning officer**

5. (1) The Electoral Commissioner for New South Wales is the returning officer for the purposes of this Regulation.

(2) The Electoral Commissioner may delegate to any member of staff of the State Electoral Office any of the returning officer’s functions under this Regulation, other than this power of delegation.

**PART 2—CALLING OF THE ELECTION****Notice of election**

**6. (1)** As soon as practicable after having been notified in writing by or on behalf of the Minister that an election is required to be held for an electoral district, the returning officer:

- (a) must cause to be published, in at least one newspaper circulating generally throughout the electoral district, a notice calling for the nomination of candidates for the election; and
  - (b) must notify the Secretary in writing that an election is to be held for the electoral district and of the time and date for the close of nominations, as stated in the notice published under paragraph (a).
- (2)** The notice referred to in subclause (1) (a):
- (a) must state that an election is to be held for the electoral district concerned; and
  - (b) must call for the nomination of candidates; and
  - (c) must fix the time and date for the close of nominations; and
  - (d) must state the places where nominations may be lodged; and
  - (e) must state the qualifications which entitle a person to nominate, or be nominated as, a candidate.

**(3)** The date fixed by a notice under this clause for the close of nominations is not to be earlier than 21 days, or later than 28 days, after the date on which the notice is first published.

**Postponement of close of nominations**

**7. (1)** The returning officer may, by a notice in a form similar to, and published in the same manner as, the notice calling for the nomination of candidates, postpone (for a period not exceeding 14 days) the close of nominations in an election.

**(2)** The power conferred by this clause on a returning officer may be exercised more than once in respect of an election.

**PART 3—NOMINATIONS****Qualifications for candidates and for nominating candidates**

**8.** A person is qualified to nominate, or to be nominated as, a candidate for an election for an electoral district if, and only if

- (a) the person is entitled to be on the final roll for the election in respect of that electoral district; and
- (b) the person has applied to be enrolled for the election.

**Nomination of candidates**

- 9. (1)** A nomination of a candidate:
- (a) must be in Form 1; and
  - (b) must be made by at least 2 persons (other than the candidate) who are qualified to nominate a candidate; and
  - (c) must contain a statement, signed by the candidate, stating that he or she consents to the nomination and will act as a member of the Authority if elected; and
  - (d) must be lodged with the returning officer before the close of nominations.
- (2)** If the returning officer considers that an insufficient number of the persons by whom a candidate has been nominated are qualified to nominate the candidate, the returning officer must, as soon as practicable after receiving the nomination, cause notice of that fact to be given to the candidate.
- (3)** The returning officer may, in order to decide whether a person who nominates a candidate in an election is qualified to do so, require the Secretary to provide the returning officer with such information regarding the person as the returning officer specifies.
- (4)** The Secretary is to comply with such a requirement as soon as practicable.

**Withdrawal of nomination**

- 10.** A candidate who has been nominated in an election may, by notice in writing given to the returning officer, withdraw the nomination at any time before the close of nominations.

**Uncontested elections**

- 11.** If, by the close of nominations, only one person has been duly nominated as a candidate, that person is taken to have been elected.

**Contested elections**

- 12.** If, by the close of nominations, 2 or more persons have been duly nominated as candidates, a ballot must be held.

**Candidate information sheets**

**13. (1)** A candidate may, at any time before the close of nominations, submit to the returning officer a statutory declaration in Form 2 containing information intended for inclusion in a candidate information sheet.

**(2)** If a ballot is to be held, the returning officer must draw up a candidate information sheet consisting of the information contained in the statutory declarations submitted by the candidates.

**(3)** The returning officer may, in drawing up a candidate information sheet, omit (or, with the consent of the candidate, correct) so much of the information contained in a candidate's statutory declaration as the returning officer considers:

- (a) to be false or misleading; or
- (b) to be inappropriate for inclusion in the candidate information sheet; or
- (c) to exceed the maximum amount of information that is suitable for inclusion in the candidate information sheet.

**(4)** The names of the candidates must be listed on the candidate information sheet in the same order as they are listed on the ballot-paper for the election.

**PART 4—PREPARATION OF THE PRELIMINARY ROLL  
AND CALLING OF THE BALLOT****Applications for enrolment for election**

**14. (1)** A person may apply to be enrolled for an election at any time after the completion of the previous election and before the close of enrolments for the current election.

**(2)** The application must be in Form 3 and must be lodged with the Secretary.

**(3)** The Secretary must forward to the returning officer any applications received by the Secretary after the calling of the ballot.

**Preparation of preliminary roll**

**15. (1)** As soon as practicable after it becomes apparent that a ballot must be held for an election, the returning officer must notify the Secretary:

- (a) that a ballot is to be held for the election; and
- (b) that a preliminary roll for the election is required.

- (2) The Secretary must provide the returning officer with:
- (a) a preliminary roll of the persons:
    - (i) who have applied to be enrolled for the election; and
    - (ii) who, in the opinion of the Secretary, are qualified to vote in the election; and
  - (b) an appropriately addressed label, or an appropriately addressed envelope, for each person whose name is included in that roll.
- (3) A preliminary roll:
- (a) must contain the full names (consecutively numbered and listed in alphabetical order) and addresses of the persons whose names are included in the roll in respect of the electoral district concerned; and
  - (b) must be certified by the Secretary in accordance with Form 4.
- (4) This clause does not apply to an election to be held as a consequence of an earlier election which has failed if a preliminary roll for the earlier election has already been provided to the returning officer.

#### **Notice of ballot**

- 16.** (1) As soon as practicable after receiving the preliminary roll for an election, the returning officer must cause notice that a ballot is to be held:
- (a) to be published in at least one newspaper circulating generally throughout the electoral district concerned; or
  - (b) to be sent by post to each person whose name is included in the preliminary roll for the election.
- (2) The following particulars must be included in the notice:
- (a) the fact that a ballot is to be held;
  - (b) the time and date fixed for the close of exhibition of the preliminary roll;
  - (c) the places where copies of the preliminary roll will be exhibited;
  - (d) the time and date fixed for the close of enrolments;
  - (e) the qualifications which entitle a person to vote;
  - (f) the places where applications for enrolment and objections against enrolment may be lodged;
  - (g) the time and date fixed for the close of the ballot.
- (3) The close of exhibition of the roll is not to be earlier than 14 days after the calling of the ballot.

**(4)** The close of enrolments is not to be earlier than 7 days after the close of exhibition of the roll or later than 14 days before the close of the ballot.

**(5)** The close of the ballot is not to be earlier than 35 days, or later than 56 days, after the calling of the ballot.

#### **Postponement of ballot**

**17. (1)** The returning officer may, by notice published in the same way as the notice stating that a ballot is to be held, postpone (for a period not exceeding 14 days) the close of exhibition of the roll, the close of enrolments or the close of the ballot.

**(2)** The power conferred on a returning officer by this clause may be exercised more than once in respect of an election.

### **PART 5—PREPARATION OF THE FINAL ROLL**

#### **Exhibition of preliminary roll**

**18.** The returning officer must cause copies of the preliminary roll to be exhibited for public inspection:

- (a) at the places where applications for enrolment and objections against enrolment may be lodged; and
- (b) for a period of at least 14 days ending at the close of exhibition of the roll.

#### **Qualifications for enrolment**

**19. (1)** A person is entitled to be on the final roll for an election if the person is the occupier of a parcel of land within the electoral district concerned, being a parcel of land that is subject to a meat industry levy under Part 5A of the Act for the period during which the election is to be held.

**(2)** A person who occupies more than one parcel of land (whether in the same or different electoral districts) is entitled to be on a final roll in respect of one only of those parcels.

**(3)** If a parcel of land is jointly occupied by 2 or more persons or is occupied by a corporation, entitlement to enrolment is to be exercised by a nominee of those persons or that corporation.

**(4)** If 2 or more parcels of land (whether in the same or different electoral districts) are jointly occupied or are occupied by a corporation, a nominee of those persons or that corporation may be appointed in respect of one only of those parcels.

- (5)** The same person may not be enrolled in respect of 2 or more parcels of land (whether in the same or different electoral districts) as:
- an occupier of one parcel of land and as a nominee in respect of another parcel of land; or
  - as a nominee in respect of more than one parcel of land.

**Applications for enrolment by persons not already enrolled**

- 20.** (1) A person whose name does not appear on the preliminary roll for an election may apply for enrolment in the final roll for the election.
- (2) The application must be in Form 3 and must be lodged with the returning officer before the close of enrolments.

- (3) On receipt of the application, the returning officer:
- if satisfied that the applicant is entitled to enrolment, must accept the application and enter the name and address of the applicant in the final roll for the election; or
  - if not so satisfied, must reject the application and inform the applicant in writing that the application has been rejected; or
  - if the application is not in the proper form or is incomplete:
    - must return the application for correction or completion within a specified time; and
    - must consider the duly corrected or completed application in accordance with this clause.

**Objections to enrolment**

- 21.** (1) Before the close of enrolments, the returning officer and any person who is qualified to vote in an election may object to the inclusion of the name of any person in the final roll.
- (2) An objection:
- must be in Form 5; and
  - must state the grounds on which the objection is made; and
  - must be signed by the objector; and
  - must be lodged with the returning officer.
- (3) The returning officer must send particulars of an objection to the person to whom the objection relates.
- (4) The person to whom an objection relates may lodge a written reply with the returning officer within 14 days after the date on which particulars of the objection were sent to the person.

(5) The returning officer must consider each objection, and any reply received within that 14 day period, and may make such inquiries as the returning officer thinks fit.

(6) The returning officer may accept or reject an objection.

(7) If the returning officer accepts an objection, the returning officer must exclude from the final roll for the election the name of the person to whom the objection relates and must inform the person and the objector, in writing, that the person's name is so excluded.

(8) If the returning officer rejects an objection, the returning officer must notify the person to whom the objection relates and the objector that the returning officer has rejected the objection.

(9) The returning officer may require a person who lodges an objection, or who replies to an objection, to verify the objection or reply by statutory declaration.

#### **Postponement of ballot not to affect final roll**

22. The validity of the final roll for an election is not affected by the postponement of the close of the ballot by a notice published after the close of the roll, and the roll remains the final roll for the election.

### **PART 6—THE BALLOT**

#### **Printing of ballot-papers**

23. (1) As soon as practicable after the close of enrolments in an election, the returning officer:

- (a) must determine the order in which the candidates' names are to be listed on the ballot-paper by means of a ballot held in accordance with the procedure prescribed for the purposes of section 82A of the Parliamentary Electorates and Elections Act 1912; and
- (b) must cause sufficient ballot-papers to be printed to enable a ballot-paper to be sent to each person whose name is included in the final roll; and
- (c) if a candidate information sheet has been drawn up, must cause sufficient copies to be printed so that a copy may be sent to each person whose name is included in the final roll.

(2) The ballot-paper must contain:

- (a) the names of the candidates, arranged in the order determined in accordance with subclause (1) (a), with a small square set opposite each name; and

- (b) if the returning officer considers that the names of 2 or more candidates are so similar as to cause confusion, such other matter as the returning officer considers will distinguish between the candidates; and
  - (c) such directions as to the manner in which a vote is to be recorded and returned to the returning officer as are required by subclause (3); and
  - (d) such further directions as to the manner in which a vote is to be recorded and returned to the returning officer as the returning officer considers appropriate.
- (3) The directions to voters must include a direction that:
- (a) the voter must record a vote for at least one candidate by placing the number “1” in the square opposite the name of the candidate for whom the voter desires to give his or her first preference vote; and
  - (b) the voter may, but is not required to, vote for additional candidates by placing consecutive numbers (beginning with the number “2”) in the squares opposite the names of those additional candidates in the order of the voter’s preferences for them.

### **Distribution of ballot-papers**

**24.** As soon as practicable after the printing of the ballot-papers for an election, the returning officer must send to each person included in the final roll for the election:

- (a) a ballot-paper that is initialled by the returning officer (or by a person authorised by the returning officer) or that bears a mark prescribed for the purposes of section 122A (3) of the Parliamentary Electorates and Elections Act 1912; and
- (b) an unsealed envelope addressed to the returning officer and bearing on the back the words “NAME AND ADDRESS OF VOTER” and “SIGNATURE OF VOTER”, together with appropriate spaces for the insertion of a name, address and signature; and
- (c) if applicable, a candidate information sheet.

### **Duplicate ballot-papers**

**25. (1)** The returning officer may, at any time before the close of the ballot, issue to a voter a duplicate ballot-paper and envelope if the voter satisfies the returning officer by statutory declaration:

- (a) that the original ballot-paper has been spoilt, lost or destroyed; and

- (b) that the voter has not already voted in the election to which the ballot-paper relates.
- (2) The returning officer is to maintain a record of all duplicate ballot-papers issued under this clause.

#### **Recording of votes**

26. In order to vote in an election, a person:
- (a) must record a vote on the ballot-paper in accordance with the directions shown on it; and
  - (b) must place the completed ballot-paper (folded so that the vote cannot be seen) in the envelope addressed to the returning officer; and
  - (c) must seal the envelope; and
  - (d) must complete the person's full name and address on, and must sign, the back of the envelope; and
  - (e) must return the envelope to the returning officer so as to be received before the close of the ballot.

### **PART 7—THE SCRUTINY**

#### **Receipt of ballot-papers**

27. (1) The returning officer must reject (without opening it) any envelope purporting to contain a ballot-paper if the envelope is not received before the close of the ballot or is received unsealed.

(2) The returning officer must examine the name on the back of each remaining envelope and, without opening the envelope:

- (a) must accept the ballot-paper in the envelope and draw a line through the name on the roll that corresponds to the name on the back of the envelope, if satisfied that a person of that name is included in the roll for the election; or
- (b) must reject the ballot-paper in the envelope, if not so satisfied or if a name, address or signature does not appear on the back of the envelope.

(3) The returning officer may reject a ballot-paper in an envelope without opening the envelope if, after making such inquiries as the returning officer thinks fit:

- (a) the returning officer is unable to identify the signature on the back of the envelope; or

- (b) it appears to the returning officer that the signature on the back of the envelope is not the signature of the person whose name and address appear on the back of the envelope.

#### **Ascertaining result of ballot**

**28.** The result of a ballot is to be ascertained by the returning officer as soon as practicable after the close of the ballot.

#### **Scrutineers**

**29. (1)** Each candidate is entitled to appoint a scrutineer to represent the candidate at all stages of the scrutiny.

**(2)** A candidate who appoints a scrutineer must cause written notice of the appointment to be given to the returning officer.

#### **Scrutiny of votes**

**30. (1)** The scrutiny of votes in a ballot is to be conducted as follows:

- (a) the returning officer is to produce, unopened, the envelopes containing the ballot-papers accepted for scrutiny;
- (b) the returning officer is then to open each such envelope, extract the ballot-paper and (without unfolding it) place it in a locked ballot-box;
- (c) when the ballot-papers from all such envelopes have been placed in the ballot-box, the returning officer is then to unlock the ballot-box and remove the ballot-papers;
- (d) the returning officer is then to examine each ballot-paper and reject those that are informal;
- (e) the returning officer is then to proceed to count the votes and ascertain the result of the election.

**(2)** At the scrutiny of votes in a ballot, a ballot-paper must be rejected as informal:

- (a) if it is neither initialled by the returning officer (or by a person authorised by the returning officer to do so) nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the Parliamentary Electorates and Elections Act 1912; or
- (b) if it has on it any mark or writing which the returning officer considers could enable any person to identify the voter who completed it; or
- (c) if it has not been completed in accordance with the directions on it.

- (3) However, a ballot-paper is not to be rejected as informal:
- (a) merely because of any mark or writing on it which is not authorised or required by this Regulation (unless it is a mark or writing referred to in subclause (2) (b)) if the returning officer considers that the voter's intention is clearly indicated on the ballot-paper; or
  - (b) if the voter has recorded a vote by placing in a square the number "1":
    - (i) merely because the same preference (other than a first preference) has been recorded on the ballot-paper for more than one candidate; or
    - (ii) merely because there is a break in the order of preferences recorded on the ballot-paper.

#### **Counting of votes**

**31. (1)** The method of counting the votes to ascertain the result of an election is as provided in Part 2 of the Seventh Schedule to the Constitution Act 1902.

**(2)** For the purpose of applying the provisions of that Part to an election, a reference in those provisions to the returning officer is to be read as a reference to the returning officer under this Regulation.

#### **Notification of result of election**

**32. (1)** As soon as practicable after a candidate in an election has been elected, the returning officer is to notify the Minister and the Secretary in writing of the name of the candidate elected.

**(2)** The candidate takes office as an elected member on such day as the Minister may determine by notice in writing given to the Secretary.

### **PART 8—MISCELLANEOUS**

#### **Decisions of returning officer final**

**33.** If the returning officer is permitted or required by the Act or this Regulation to make a decision on any matter relating to the taking of a ballot, the decision of the returning officer on the matter is final.

#### **Death of candidate**

**34.** If a candidate dies after the close of nominations and before the close of the ballot:

- (a) the returning officer is to cause notice of the death to be published in the Gazette; and
- (b) all proceedings taken after the Minister notified the returning officer that the election was required to be held are of no effect and those proceedings must again be taken.

### Offences

**35.** A person must not:

- (a) apply for enrolment on a final roll unless the person is entitled to be on the roll; or
- (b) apply for enrolment on a final roll if the person is already on the roll, whether in the capacity of an occupier or a nominee; or
- (c) vote, or attempt to vote, more than once in an election; or
- (d) vote, or attempt to vote, in an election in which the person is not entitled to vote.

Maximum penalty: 5 penalty units.

### Repeal

**36. (1)** The Meat Industry (Elections) Regulation 1989 is repealed.

**(2)** Any act, matter or thing that, immediately before the repeal of the Meat Industry (Elections) Regulation 1989, had effect under that Regulation is taken to have effect under this Regulation.

## SCHEDULE 1—FORMS

### Form 1

(Cl.9)

#### NOMINATION OF CANDIDATE (MEAT INDUSTRY ACT 1978)

We hereby nominate .....  
(*name in full*)

of .....  
(*postal address*)

as a candidate for election (for the electoral district of ..... ) to the Meat Industry Authority.

We declare that we are each qualified to make this nomination.

*Name in full**Address**Signature*

.....  
.....  
.....

I, ..... hereby consent to being a candidate for election  
(for the electoral district of ..... ) to the Meat Industry Authority.

Postal address: .....

Postcode: ..... Telephone No.: .....

Date of birth: .....

Dated: ..... Signed: .....

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NOTE: This nomination must be completed by not less than 2 persons (other than the candidate), each of whom is qualified to nominate a candidate in accordance with clause 8 of the Meat industry (Elections) Regulation 1994.

**Form 2**

(CL. 13)

**STATUTORY DECLARATION**  
**(MEAT INDUSTRY ACT 1978)**

I. .... of .....  
 do solemnly and sincerely declare that:

1. My full name is .....
2. My residential address is .....
3. My date of birth is .....
4. I am self-employed\*/employed by\* .....  
       as .....  
       *(specify nature of employment)*
5. I hold the following qualifications (academic/trade/professional): .....
6. I am a member of the following organisations: .....
7. (See note) .....

And I make this solemn declaration conscientiously believing the same to be true,  
 and by virtue of the provisions of the Oaths Act 1900.

Declared at ..... this .....  
 day of ..... 19 .....

.....  
 (Signature)

Before me:

Justice of the Peace

\* *(Strike out whichever does not apply)*

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NOTE: A candidate may include further information relating to the candidacy. The information should not exceed 100 words.

**Form 3**

(CII. 14, 20)

**APPLICATION FOR ENROLMENT**

(MEAT INDUSTRY ACT 1978)

Surname: .....

Given names: .....

Postal address: .....

Postcode: ..... Telephone No.: .....

Address of property by virtue of which meat industry levy is payable:

.....

Rural Lands Protection Board: ..... RLPB Assessment No. .....

I hereby apply to be enrolled for the ..... electoral district.

(a) \* as the occupier of land; or

(b) \* as a nominee of the occupier of land.

Particulars of person or persons for whom I am a nominee are as follows:

Name: .....

Postal address: .....

I declare that I am\*/the person I represent is\* entitled to enrolment in accordance with clause 19 of the Meat Industry (Elections) Regulation 1994.

I further declare that, to the best of my knowledge, the information contained in this application is true.

Dated: .....

Signed: .....

\* *(Strike out whichever does not apply)*

**Form 4**

(Cl. 15)

**CERTIFICATE**

(MEAT INDUSTRY ACT 1978)

I certify that this roll contains the names (consecutively numbered and listed in alphabetical order) and addresses of those persons who in my opinion are entitled to vote in the electoral district of ..... in the election for which this roll has been prepared.

The first and last entries in the roll are as follows:

First entry: No.: ..... Name: .....

Address: .....

Last entry: No.: ..... Name: .....

Address: .....

Dated: ..... Signed: .....

**Form 5**

(Cl. 21)

**OBJECTION TO ENROLMENT**

(MEAT INDUSTRY ACT 1978)

I hereby object to the inclusion in the final roll for the following election:

.....  
*(specify the election to which the objection relates)*

of the name of .....  
*(name in full)*

of .....  
*(address)*

This objection is based on the following grounds:

.....  
.....  
*(specify the grounds of the objection)*

Name of objector: .....

Postal address: .....

Postcode: ..... Telephone No.: .....

Dated: ..... Signed: .....  
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**SCHEDULE 1—FORMS**

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**EXPLANATORY NOTE**

The object of this Regulation is to repeal and remake, without any changes in substance, the provisions of the Meat Industry (Elections) Regulation 1989 relating to the election of members of the Meat Industry Authority. The new Regulation makes provision with respect to the following matters:

- (a) the calling of elections (Part 2);
- (b) nominations for elections (Part 3);
- (c) the preparation of preliminary electoral rolls and the calling of ballots (Part 4);
- (d) the preparation of final electoral rolls (Part 5);
- (e) the conduct of ballots (Part 6);
- (f) the scrutiny of votes in a ballot (Part 7);
- (g) other matters of a minor, consequential or ancillary nature (Parts 1 and 8).

This Regulation is made under the Meat Industry Act 1978, including section 77 (the general regulation making power), section 45 and clause 10 of Schedule 2.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.

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