



# B-BBEE Commission APP 2024/2025

Portfolio Committee Presentation

17 September 2024



# Outline

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2. Mandate of B-BBEE Commission
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# Introduction

❑ The B-BBEE Act was amended in 2013:

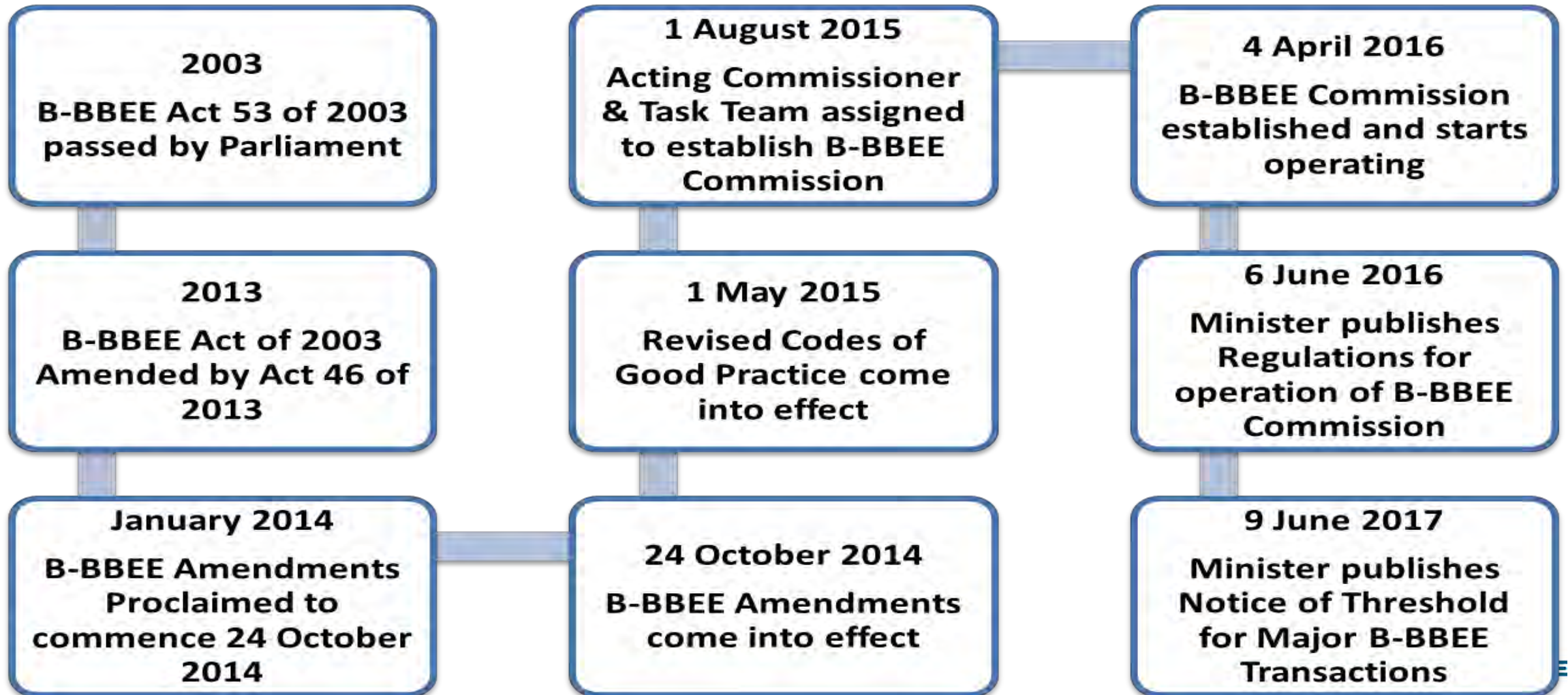
- ✓ to **strengthen** it and ensure effective, consistent **implementation** and reporting across the economy
- ✓ to **align with broader economic policy** on creating employment and reducing poverty and inequality
- ✓ with the advice of Presidential BEE Advisory Council

❑ The following were main amendments:

- ✓ Deal with non-compliance and circumvention, including making '**fronting**' an offence
- ✓ Align the Act and Code of Good Practice with other legislation impacting on B-BBEE
- ✓ Oblige **reporting on compliance** by JSE-listed entities and state organs and public entities (re: criteria for procurement, licensing, concessions, incentives, etc)
- ✓ Establish **B-BBEE Commission** to monitor and evaluate B-BBEE



# B-BBEE Legal Framework



# Developmental Objectives: (Transformation)

- ❑ **Viable economic empowerment of all black people**, in particular **women, workers, youth, people with disabilities** and **people living in rural areas**, through diverse but integrated socio-economic strategies that include:
  - **Increasing number of black people** that manage, own and control
  - **Facilitating** management and ownership by **communities, workers, cooperatives** & other collective enterprises
  - Human resource and **skills development**
  - Achieving **equitable representation** in all occupational workforce levels and categories
  - Preferential **procurement** from black-owned or managed
  - **Investment** in enterprises that are black-owned or managed

# B-BBEE Commission Mandate

Functions  
(s13F)

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**Monitor, supervise and promote adherence in interest of the public**

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**Strengthen collaboration of private & public sectors to safeguard Act's objectives**

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**Receive complaints or initiate investigations**

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**Promote advocacy, access to opportunities and educational programmes**

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**Maintain register of major B-BBEE transactions (>R25 million)**

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**Receive and analyse prescribed reports (JSE listed entities, SETA, Public Entities, Organs of State)**

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**Promote good corporate governance and accountability**

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**Increase knowledge and public awareness (guidelines, research, communication)**

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# Core Processes and Timelines



## Complaints

B-BBEE7 Form  
Alternative Dispute  
Resolution  
Findings and  
Recommendations  
Up to 12 months to  
investigate



## Advisory Opinions

Explanatory Note on  
Procedure issued  
Non-binding and  
based on set of facts  
Provide within 30 days



## Registration of Major B- BBEE transactions

### Based on Threshold

Certificate of  
Registration within 10  
days  
Feedback on merit  
within 90 days



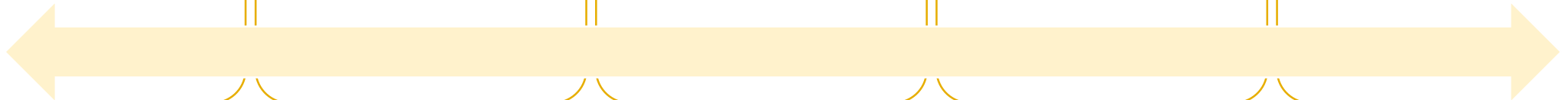
## Compliance Reports

JSE Listed, SETA,  
Organs of State,  
public entity  
Sector Council  
Consider report within  
90 days



## Written Clarifications

General interpretation  
or application of B-  
BBEE  
Issued within 5 days



# B-BBEE Contribution to Developmental Objectives

B-BBEE contributes towards the developmental objectives through promoting:

- ✓ **Ownership** - measures effective ownership by black people,
- ✓ **Management Control** - measures effective control by black people,
- ✓ **Skills Development** - measures the extent to which entities carry out initiatives designed to develop the competence of black people internally and externally,
- ✓ **Enterprise and Supplier Development** - measures the extent to which entities carry out initiatives to assist growth and sustainability of black enterprises and the extent to which they buy goods and services from empowering suppliers with strong B-BBEE recognition, and
- ✓ **Socio-Economic Development** - measured entities carry out initiatives to promote access to the economy by black people.



# Outcomes Measured for B-BBEE

- ❑ **Ownership:** participation of black people in ownership through exercisable **voting rights** (25%+1 vote); **economic interest** and **net value realisation**
- ❑ **Management Control:** Representation of black people in executive and non-executive management at average of 50%
- ❑ **Skills Development:** 6% of leviable amount (payroll) for training black employees and non-employees
- ❑ **Enterprise and Supplier Development:** Procurement from compliant suppliers and investment of 3% Net Profit After Tax or 0.3% allocated budget for **financial and non-financial support**
- ❑ **Socio-Economic Development:** Channel 1% NPAT or 0.1% allocated budget to empower black people in rural and under developed areas

# B-BBEE Implementation

- ❑ **Private Sector** applies normal/generic scorecard
- ❑ **Organs of State & Public Entities** are measured using specialised scorecard which excludes ownership element, but must comply with requirements on procurement, licences, concessions, incentives, etc
- ❑ Multinationals may apply to Minister/the dtic for **Equity Equivalent Investment Programme (EEIP)** which if approved entails a **financial contribution** instead of equity/shareholding transaction to meet the ownership target. They will still need to comply with the remainder of the elements.

# Work Programmes of B-BBEE Commission

❑ The Commission has structured its work in this way:

## Compliance Promotion

- ✓ Assess Compliance Reports
- ✓ Assess Major B-BBEE Transactions
- ✓ Issue Practice Guides; Advisory Opinions & Clarifications
- ✓ Undertake Advocacy, Education & Awareness & Stakeholder Relations
- ✓ Monitoring (Research reports; Site Visits)

## Corrective Enforcement

- ✓ Complaints Investigations
- ✓ Alternative Dispute Resolution (ADR)
- ✓ Remedial recommendations
- ✓ Referrals (to other regulators & for Criminal Prosecution)
- ✓ Site visits for investigations

# Research Capabilities

- ❑ Research is critical to the work of the Commission to monitor compliance and progress of B-BBEE
- ❑ Research outputs:
  - ✓ Annual National **B-BBEE Status and Trends** Report and annual **Major Transactions** Report
  - ✓ Special Reports: 1) Enterprise and Supplier Development 2) Transformation of the Verification Industry
  - ✓ Research Partnerships (with Competition Commission; Presidential BEE Advisory Council; Universities)

# Human Resources

Current staff complement of B-BBEE Commission is as follows:

Division/Office	Current Headcount
<b>Office of the Commissioner</b>	<b>3</b>
<b>Compliance</b>	<b>7</b>
<b>Investigations</b>	<b>3</b>
<b>Stakeholder Relations</b>	<b>1 (Additional to the structure)</b>
<b>Administration (Operations, Strategy, Risk and Audit)</b>	<b>9</b>
Internship	1
<b>Reassignment</b>	<b>5</b>
<b>Total</b>	<b>29</b>



# Financial Overview

Below is the current year's allocated budget of the B-BBEE Commission and the indicative figures for over the next two (2) financial years:

Economic Classification	2024/25 R'000	2025/26 R'000	2026/27 R'000
Compensation of Employees	12 631	11 694	11 258
Goods and Services	8 501	8 171	8 700
Payment for capital assets	596	623	652
Total expenditure	21 728	20 488	20 610

# Governance Structure

- ❑ Parliament: B-BBEE Act requires Commission to be funded through Parliament appropriation
- ❑ Ministry
- ❑ **the dtic** line branch (Trade and Competition)
- ❑ Commissioner as Accounting Officer is responsible for Exco of executive managers and senior managers
- ❑ B-BBEE Act allows for the Minister to appoint Specialized Committees to assist Commission

# APP of B-BBEE Commission

- ❑ Annual Performance Plan (APP) sets out activities, outputs and outcomes that B-BBEE Commission seeks to achieve with specified timeframes and available resources.
- ❑ B-BBEE Commission's APP is aligned to government and **the dtic** overarching priorities, in particular on Transformation and promoting participation of black people in the economy, through compliance with B-BBEE Act and initiatives on enterprise, supplier, skills and socio-economic development
- ❑ Over and above our mandate, the Commission provides advice on B-BBEE related matters in **the dtic's** programmes, such as investment promotion, Equity Equivalent Investment Programme, Black Industrialists, incentive administration, and contributes to **the dtic's** stakeholder engagements and commitments to efficiency and red-tape reduction.

# 2023/24 Performance Highlights

- ❑ Received 92 Complaints, 92% of which related to 'fronting' and misrepresentation
- ❑ Finalised 67 investigation reports within 12 months. 8 matters resolved by Alternative Dispute Resolution, where R3 050 000 was paid to prejudiced parties, and R100 000 to NSFAS
- ❑ As part of monitoring compliance:
  - ✓ Registered 31 out of 51 Major B-BBEE Transactions with R170 billion total value
  - ✓ Received/Assessed 260 Compliance Reports – indicating that entities contributed R7.2 billion for Enterprise Development; R40.7 billion for Supplier Development; R64 billion for Skills Development
  - ✓ Published 2 reports on B-BBEE: on Major Transactions and on National Status and Trends
- ❑ Had 12 industry engagements and 58 education and awareness workshops
- ❑ Issued 11 Advisory Opinions and 1 029 Clarifications on various B-BBEE compliance matters.

# APP Core Outputs and Targets 2024/25 FY

Programme	Outcome	Output	Output Indicator	2024/25 FY
Compliance	Improved Compliance	Guide implementation of the B-BBEE Act	Average number of days taken to provide advice to clients	30 days
			Average of number of days taken to issue clarifications to clients	5 days
			Number of days taken to provide requested advice on B-BBEE-related matters in New Developed Masterplan	20 days
			Average number of days taken to provide requested advice on B-BBEE-related matters in expedited regulatory amendments and flexibility to promote energy efficiency	20 days
			Average number of days taken to provide requested advice on B-BBEE-related matters in Schemes for: Black Industrialists; SMMEs, Workers Empowerment (ESOPs); and women and youth-owned businesses support	20 days
			Average number of days taken to provide requested advice on B-BBEE-related matters in incentive adjudication processes	20 days
			Number of days taken to provide requested advice on B-BBEE-related matters in priority legislation amendments	20 days



# APP Core Outputs and Targets 2024/25 FY

Programme	Outcome	Output	Output Indicator	2024/25 FY
Compliance	Capable State	Educate Stakeholders on B-BBEE	Guidelines / Brochures translated in different languages	2 annually
			Number of education and awareness sessions conducted	10 annually
			Number of community outreach programmes of the dtic group supported on request	1
			Number of conferences, summits and international forums supported on request	1
	Measurable empowerment benefits in major transactions (i.e. of > R25m in value )	Assessment of B-BBEE major transactions (i.e. of > R25m in value )	number of days taken to register transactions and issue registration certificates	10 days
			Enhanced quality of empowerment Transactions	90 days taken to assess transactions and issue remedial instruction
	Measurable empowerment benefits of ESD, SD & SED investments	Assessment of compliance with ESD, SD & SED elements by reporting entities	Value invested for Supplier Development, Enterprise Development, Socio-Economic Development and Skills Development elements	90 days taken to assess compliance reports

# APP Core Outputs and Targets 2024/25 FY

Programme	Outcome	Output	Output Indicator	2024/25 FY
Investigation & Enforcement	Improved Compliance	Conduct both proactive and reactive investigations.	Average percentage of reports produced on investigations conducted within 12 months	On average 50% investigation findings produced on investigations conducted within 12 months upon receipt of complaint / initiation
		Encourage and guide resolution of disputes through ADR when necessary.	Average percentage of identified cases analysed & investigated for possible ADR process, if any. [r15 (11)]	80% of the identified cases for ADR finalised within 6 months, if any [r15 (11)]
Investigation & Enforcement	Improved Compliance	Referral to other regulatory entities when necessary.	Percentage of cases referred to other Regulatory entities on average within 30 days, if any. [s13J (6)]	100% of identified cases referred on average within 30 days, if any.

# APP Core Outputs and Targets 2024/25 FY

Programme	Outcome	Output	Output Indicator	2024/25 FY
Research, analysis and reporting	Improved Compliance	Report on B-BBEE National Status and Transformation Trends	Number of 'National Status' Annual Report produced	100% of identified cases referred on average within 30 days, if any.
		Report on Major Transactions	Number of major B-BBEE Transaction Report produced	1 Major B-BBEE Transaction report produced

Programme	Outcome	Output	Output Indicator	2024/25 FY
Relationship Building/Stakeholder Relations	Improved Compliance	Build mutual relationships with selected partners.	Monitor, maintain and evaluate relationships and produce stakeholder report	Annual Stakeholder Report
	Improved public awareness about B-BBEE	Increased reach of audiences	Media Monitoring report	Implement Corporate Identity Manual

# APP Core Outputs and Targets 2024/25 FY

Programme	Outcome	Output	Output Indicator	2024/25 FY
Administration	Effective and Efficient Organisation	Develop and Implement ICT strategy and infrastructure	Develop Integrated data base (data warehouse) for the B-BBEE Commission.	Implement Integrated data base
		Implement and maintain support systems	Number of systems developed, implemented, maintained, enhanced and monitored.	Implement and maintain 3 Systems (One stop portal, Events Management System and B-BBEE certificate & reports portal.
		Multi- Skilled workforce/ staff	Average percentage of officials trained on internal policies and B-BBEE	60% officials trained
	State capacity to promote transformation	Support to the dtic red tape and state capability targets	Number of days taken to process supplier invoices in support of the dtic red tape reduction targets and improved turnaround times	5 days taken from date of receipt to process supplier invoice and submit to the dtic OCFO helpdesk.

# Cross-Cutting Focus Areas

## 1: Gender Mainstreaming

The B-BBEE Commission focus on women empowerment and gender mainstreaming, through:

- ❑ Partnerships (Commission for Gender Equality; Dept. Women, Youth and Persons with Disabilities (DWYPwD))
- ❑ Training and capacity –building (eg on Corporate Governance to black women in 9 provinces).

## 2: District Development Model

- ❑ Support other spheres of government through education and awareness sessions on B-BBEE.
- ❑ Support the dtic group on identified community outreach programmes.

## 3: Strengthen Effectiveness of Legislation

- ❑ Inputs into legislative initiatives of the dtic; and other organs of state and public entities (e.g Department of Employment and Labour, National Treasury, DWYPwD, South African Health Products Regulatory Authority)



# Risks, Assumptions and Partnerships

Risk Description	Mitigation Action Required
Clarification of institutional model of the B-BBEE Commission.	Re-engage with the dtic to resolve institutional model of the B-BBEE Commission.
Inadequate human and financial resources for Commission to function effectively.	Continue engaging the dtic for additional human and financial resources.
Misalignment of approaches to transformation / B-BBEE in government.	Continuous engagements with role played by other departments in advancing B-BBEE.  Practice guides on B- <b>BBEE</b> and <b>MOU's</b> .
Non-compliance of entities with corrective action and recommendations of the Commission.	Publication of investigation findings.  Engagement with the dtic on the possible amendments of legislation to strengthen enforcement.
Litigation against B-BBEE Commission	Continue engaging the dtic for enhancing capacity for high quality of investigations and strong defence of B-BBEE Commission decisions.

## Assumptions:

- ☐ Required resources (financial and human resources) will be allocated.
- ☐ Vacated positions will be filled on time.
- ☐ Required enabling systems developed and implemented.

## Partnerships:

- ☐ Continue working with 07 strategic partners to advance transformation.

# Thank You

## “An Inclusive economy for all, together”

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