

Judicial Review

Application for urgent consideration

This form must be completed by the Claimant or the Claimant's advocate if exceptional urgency is being claimed and the application needs to be determined within a certain time scale.

The claimant, or the claimant's solicitors must serve this form on the defendant(s) and any interested parties with the N461 Judicial review claim form.

To the Defendant(s) and Interested Party(ies) Representations as to the urgency of the claim may be made by defendants or interested parties to the relevant Administrative Court Office by fax or email:-

For cases proceeding in

In the High Court of Justice Administrative Court	
Claim No.	
Claimant(s) <i>(including ref.)</i>	Good Law Project Ltd (AH/3553/004)
Defendant(s)	Secretary of State for Health and Social Care
Interested Party(ies)	

London Fax: 020 7947 6802
email: administrativecourtoffice.generaloffice@hmcts.x.gsi.gov.uk

Birmingham Fax: 0121 250 6730
email: administrativecourtoffice.birmingham@hmcts.x.gsi.gov.uk

Cardiff Fax: 02920 376461
email: administrativecourtoffice.cardiff@hmcts.x.gsi.gov.uk

Leeds Fax: 0113 306 2581
email: administrativecourtoffice.leeds@hmcts.x.gsi.gov.uk

Manchester Fax: 0161 240 5315
email: administrativecourtoffice.manchester@hmcts.x.gsi.gov.uk

SECTION 1 Reasons for urgency

The Claimant seeks expedition, including in respect of abridgement of time for the Defendant to serve his acknowledgement of service, in respect of the permission decision and in respect of further directions for the progress of the claim.

The enactment challenged is Regulation 9 of the Human Medicines (Amendment) Regulations 2019. This provides for the issuing of Serious Shortage Protocols in the event that medicine shortages arise. In particular, Regulation 9 allows pharmacists unilaterally to alter the medicine, the strength of medicine, the quantity of medicine or its pharmaceutical form as prescribed by appropriate practitioners (e.g. doctors).

Expedition is sought because the probability of a Serious Shortage Protocol being issued in the event of a no-deal Brexit is high. In the event of a no-deal Brexit, the absence of a legal framework for imports and exports is expected to have an immediate and drastic effect on supply chains. Shortages are likely as stockpiling arrangements cannot cope for more than a few weeks: Witness Statement of Tamara Katherine Hervey, dated [25.02.19], §§5-6. As things stand, a no-deal Brexit will take place by operation of law on 29 March 2019. Consequently, expedition is ultimately sought so that the claim is heard before that date.

The need for expedition is, in substance, recognised by the Secretary of State's action. A no-deal Brexit played a big part in the decision to make Regulation 9 of the Human Medicines (Amendment) Regulations 2019 now. This is clear from the Government's own consultation document, which stated that "Prompted by the preparations for the UK's exit from the EU, the Department of Health and Social Care is proposing some changes the Human Medicines Regulations 2012 to ensure the continuity of supply of medicines when the UK leaves the EU, including in a 'no deal' scenario....Normally, we would consult publicly for 12 weeks before making any changes to the Human Medicines Regulations 2012. However, you will understand that any legislative changes in relation to the UK's exit from the EU need to be progressed quickly so that they are in force before the day that the UK leaves the EU." The Claimant's proposals for alternatives to expedition and for agreed directions have been rebuffed by the Defendant (see page 2 of this form).

SECTION 2 Proposed timetable (tick the boxes and complete the following statements that apply)

- a) Urgency (including abridgement of time for AOS) is sought and should be considered within 24 hours/days
If consideration is sought within 48 hours of issue, **you must complete Section 3 below.**
- b) Interim relief is sought and the application for such relief should be considered within ____ hours/days
If consideration is sought within 48 hours of issue, **you must complete Section 3 below.**
- c) The N461 application for permission should be considered within 7 hours / days
If consideration is sought within 48 hours of issue, **you must complete Section 3 below.**
- d) If permission for judicial review is granted, a substantive hearing is sought by 29 March

SECTION 3 Justification for request for immediate consideration

Date and time when it was first appreciated that an immediate application might be necessary.

Date 25.02.19	Time 15.20pm
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Please provide reasons for any delay in making the application.

The Claimant does not consider that there has been any delay in making the application. The enactment which is the subject of the claim only came into force on 9 February 2019. Acting with all due celerity, and given the complexity of the case and the evidence that had to be obtained, this is the first time the Claimant could reasonably have made this application.

What efforts have been made to put the defendant and any interested party on notice of the application?

1) A pre-action letter was sent to the Defendant on 19.02.19, requesting confirmation by 4pm on 25.02.19 that Regulation 9 would be withdrawn; 2) The Defendant replied on 21.02.19, stating that it would endeavour to provide a substantive response by 05.03.19 and asking why a response was needed within an abridged timescale; 3) The Claimant replied on 21.02.19, setting out why expedition was necessary. The Defendant was invited to agree the same directions as those set out in the draft Order attached to this application; 4) In a letter, dated 22.02.19, the Defendant refused, stating that "we do not accept that expedition with a view to final hearing by 22.03.19 is justified."; 5) The Claimant replied at 9.30am on 25.02.19, stating that if the Defendant gave a formal undertaking, by 4pm on 25.02.19, not to exercise the power made by Regulation 9 pending the Court's determination of its legality, the Claimant would wait until 05.03.19 for their PAP response; 6) The Defendant replied at 15.20pm on 25.02.19 refusing to provide the requested undertaking; 7) Absent appropriate undertakings, the need to ensure that there is sufficient time for the claim to be heard before 29.03.19 has meant that proceedings had to be issued as soon as practicable.

SECTION 4 Interim relief (state what interim relief is sought and why in the box below)

A draft order must be attached.

See draft Order attached.

SECTION 5 Service

A copy of this form of application was served on the defendant(s) and interested parties as follows:

Defendant

by fax machine to time sent
Fax no. time

by handing it to or leaving it with
name

by e-mail to
e-mail address

Date served
Date

Interested party

by fax machine to time sent
Fax no. time

by handing it to or leaving it with
name

by e-mail to
e-mail address

Date served
Date

I confirm that all relevant facts have been disclosed in this application

Name of claimant's advocate

name

Claimant (claimant's advocate)

Signed

THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

CLAIM NO:

BETWEEN:-

THE QUEEN
(on the application of GOOD LAW PROJECT LIMITED)

Claimant

- v -

SECRETARY OF STATE FOR HEALTH AND SOCIAL CARE

Defendant

Draft ORDER

Before

UPON reading the Claimant's application, dated 25 February 2019

IT IS HEREBY ORDERED THAT:-

1. The Defendant shall file and serve an Acknowledgment of Service and Summary Grounds of Defence by 4pm on the 4 March 2019;
2. Any legal submissions in response from the Claimant shall be limited to two sides of A4 paper and shall be filed and served by 4pm on the 5 March 2019;
3. The Court shall endeavour to decide whether permission to apply for judicial review should be granted, and whether there should be a Costs Capping Order, by 4pm on the 6 March 2019;
4. If permission to apply for judicial review and a Costs Capping Order are granted, then, subject to any further order the Court sees fit to make at that stage:
 - a. The Claimant shall file and serve a skeleton argument and any further evidence by 4pm on the 13 March 2019;

- b. The Defendant shall file and serve a skeleton argument and any evidence by 4pm on the 19 March 2019;
 - c. Any response from the Claimant shall be as concise as possible and shall be filed and served as speedily as possible;
 - d. The Claimant and Defendant shall agree on a core and supplementary bundle of documents, and on a bundle of authorities, to be filed at Court as soon as possible and no later than 4 pm on the 22 March 2019;
 - e. There shall be a final hearing of the application for a judicial review listed for 2 days in the week starting the 25 March 2019.
5. If permission to apply for judicial review is refused on the papers, an oral permission hearing to be listed for half a day by no later than the 13 March 2019.
6. Costs in the case.

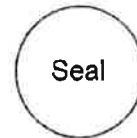
Dated:

Judicial Review Claim Form

Notes for guidance are available which explain how to complete the judicial review claim form. Please read them carefully before you complete the form.

In the High Court of Justice Administrative Court	
Help with Fees - Ref no. (if applicable)	H W F - <input type="text"/> - <input type="text"/>

<i>For Court use only</i>	
Administrative Court Reference No.	
Date filed	



Is your claim in respect of refusal of an application for fee remission? Yes No

SECTION 1 Details of the claimant(s) and defendant(s)

Claimant(s) name and address(es)

<small>name</small> Good Law Project Limited	
<small>address</small> 3 East Point High Street, Seal, Sevenoaks, Kent, United Kingdom, TN15 0FG	
<small>Telephone no.</small>	<small>Fax no.</small>
<small>E-mail address</small>	

Claimant's or claimant's legal representatives' address to which documents should be sent.

<small>name</small> Deighton Pierce Glynn Solicitors	
<small>address</small> Unit 10c, Whitefriars Lewins Mead Bristol BS1 2NT BRISTOL - 7859	
<small>Telephone no.</small> 0117 3323598	<small>Fax no.</small> 0117 370 1036
<small>E-mail address</small> bristol@dpglaw.co.uk	

Claimant's Counsel's details

<small>name</small> Stephen Knafler QC & Yasser Vanderman	
<small>address</small> Landmark Chambers 180 Fleet Street London EC4A 2HG DX 1042 (Chancery Lane)	
<small>Telephone no.</small> 0207 430 1221	<small>Fax no.</small> 0207 421 6060
<small>E-mail address</small> clerks@landmarkchambers.co.uk	

1st Defendant

<small>name</small> Secretary of State for Health & Social Care	
<small>Defendant's or (where known) Defendant's legal representatives' address to which documents should be sent.</small>	
<small>name</small> Government Legal Department	
<small>address</small> One Kemble Street, London WC2B 4TS DX 123242 Kingsway 6	
<small>Telephone no.</small> 020 7210 3593	<small>Fax no.</small> 020 7210 3433
<small>E-mail address</small> tom.adams@governmentlegal.gov.uk	

2nd Defendant

<small>name</small>	
<small>address</small>	
<small>Defendant's or (where known) Defendant's legal representatives' address to which documents should be sent.</small>	
<small>name</small>	
<small>address</small>	
<small>Telephone no.</small>	<small>Fax no.</small>
<small>E-mail address</small>	

SECTION 2 Details of other interested parties

Include name and address and, if appropriate, details of DX, telephone or fax numbers and e-mail

name		name	
address		address	
Telephone no.	Fax no.	Telephone no.	Fax no.
E-mail address		E-mail address	

SECTION 3 Details of the decision to be judicially reviewed

Decision: The making of Regulation 9 of the Human Medicines (Amendment) Regulations 2019.

Date of decision: 9 February 2019

Name and address of the court, tribunal, person or body who made the decision to be reviewed.

name Department of Health & Social Care	address South Wing, Floor 3 39 Victoria Street, London, SW1H 0EH
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SECTION 4 Permission to proceed with a claim for judicial review

I am seeking permission to proceed with my claim for Judicial Review.

Is this application being made under the terms of Section 18 Practice Direction 54 (Challenging removal)? Yes No

Are you making any other applications? If Yes, complete Section 8. Yes No

Is the claimant in receipt of a Civil Legal Aid Certificate? Yes No

Are you claiming exceptional urgency, or do you need this application determined within a certain time scale? If Yes, complete Form N463 and file this with your application. Yes No

Have you complied with the pre-action protocol? If No, give reasons for non-compliance in the box below. Yes No

[Empty box for reasons for non-compliance]

Have you issued this claim in the region with which you have the closest connection? (Give any additional reasons for wanting it to be dealt with in this region in the box below). If No, give reasons in the box below. Yes No

[Empty box for reasons for regional connection]

Does the claim include any issues arising from the Human Rights Act 1998?

If Yes, state the articles which you contend have been breached in the box below.

Yes No

SECTION 5 Detailed statement of grounds

set out below attached

SECTION 6 Aarhus Convention claim

I contend that this claim is an Aarhus Convention claim

Yes No

If Yes, indicate in the following box if you do not wish the costs limits under CPR 45.43 to apply.

If you have indicated that the claim is an Aarhus claim set out the grounds below, including (if relevant) reasons why you want to vary the limit on costs recoverable from a party.

SECTION 7 Details of remedy (including any interim remedy) being sought

See paragraph 100 of the attached Statement of Facts and Grounds.

SECTION 8 Other applications

I wish to make an application for:-

Upon a grant of permission a Costs Capping Order is sought in the following terms - that the Claimant's cost liability for adverse costs be capped at £15,000, That the Defendant's liability for the Claimant's costs be capped at Treasury rates - £225 per hour, £90 per hour, £180 per hour and £120 per hour for leading counsel, junior counsel and solicitors (over 3 and 4 years qualification) respectively. Further submissions on this issue will be filed following receipt of the Defendant's response to the claim. Evidence in support of the application is attached in the statement of Golyon Maughan QC.

SECTION 9 Statement of facts relied on

See the attached Statement of Facts and Grounds.

Statement of Truth

I believe (The claimant believes) that the facts stated in this claim form are true.

Full name Ugo Hayter

Name of claimant's solicitor's firm Deighton Pierce Glynn Solicitors

Signed 

Claimant ('s solicitor)

Position or office held Solicitor

(if signing on behalf of firm or company)

SECTION 10 Supporting documents

If you do not have a document that you intend to use to support your claim, identify it, give the date when you expect it to be available and give reasons why it is not currently available in the box below.

Please tick the papers you are filing with this claim form and any you will be filing later.

- | | | |
|---|-----------------------------------|--|
| <input checked="" type="checkbox"/> Statement of grounds | <input type="checkbox"/> included | <input checked="" type="checkbox"/> attached |
| <input checked="" type="checkbox"/> Statement of the facts relied on | <input type="checkbox"/> included | <input checked="" type="checkbox"/> attached |
| <input type="checkbox"/> Application to extend the time limit for filing the claim form | <input type="checkbox"/> included | <input type="checkbox"/> attached |
| <input checked="" type="checkbox"/> Application for directions | <input type="checkbox"/> included | <input checked="" type="checkbox"/> attached |
| <input type="checkbox"/> Any written evidence in support of the claim or application to extend time | | |
| <input type="checkbox"/> Where the claim for judicial review relates to a decision of a court or tribunal, an approved copy of the reasons for reaching that decision | | |
| <input checked="" type="checkbox"/> Copies of any documents on which the claimant proposes to rely | | |
| <input type="checkbox"/> A copy of the legal aid or Civil Legal Aid Certificate <i>(if legally represented)</i> | | |
| <input checked="" type="checkbox"/> Copies of any relevant statutory material | | |
| <input checked="" type="checkbox"/> A list of essential documents for advance reading by the court <i>(with page references to the passages relied upon)</i> | | |
| <input type="checkbox"/> Where a claim relates to an Aarhus Convention claim, a schedule of the claimant's significant assets, liabilities, income and expenditure. | <input type="checkbox"/> included | <input type="checkbox"/> attached |

If Section 18 Practice Direction 54 applies, please tick the relevant box(es) below to indicate which papers you are filing with this claim form:

- | | | |
|--|-----------------------------------|-----------------------------------|
| <input type="checkbox"/> a copy of the removal directions and the decision to which the application relates | <input type="checkbox"/> included | <input type="checkbox"/> attached |
| <input type="checkbox"/> a copy of the documents served with the removal directions including any documents which contains the Immigration and Nationality Directorate's factual summary of the case | <input type="checkbox"/> included | <input type="checkbox"/> attached |
| <input type="checkbox"/> a detailed statement of the grounds | <input type="checkbox"/> included | <input type="checkbox"/> attached |

Reasons why you have not supplied a document and date when you expect it to be available:-

Signed _____

Claimant ('s Solicitor) _____

