



Number 18 Chambers – Employment Seminar 2026

Early Conciliation Certificates – Much Ado About Nothing



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18 September 2026

Barnaby Large (2007)



Early Conciliation (Refresh)

- Requirement to contact – s.18A ETA
- Extensions – i.e. ss. 207B ERA; 140B EqIA
- Exemptions – ET(EC:ERP)R 2014 (i.e. interim relief reg.3)
- Tribunal Procedure – ETPR 2024 (see rr.9 – 14)

S.18A - Tribunal Jurisdiction

“A person who is subject to the requirement... may not institute relevant proceedings” (s.18A(8))

Reynolds v Abel Estate Agent Ltd [2026] ICR 369
EC is jurisdictional (Underhill LJ)

Pryce v Baxterstorey Ltd [2022] EAT 61, HHJ Shanks-
No jurisdiction by retrospectively obtaining EC Cert





Certificates – Refresher

- Identify prospective C and R
- Notify ACAS within the limitation period
- Provide the proscribed information
- Obtain an EC certificate
- Transpose the EC number to the ET1
- Present ET1 within time limit with potential extension (i.e. s.207B ERTsA & 140B EqIA)

 Warning – ERTsA 25 limits extend 1.10.26

Employment Rights Act 2025 (Commencement No.5 and Transitional Provisions) (Amendment) Regulations 2026 = acts done after 1.10.26 (*two limits same claims?*).

S.18(1): “Proceedings related to any matter”

Science Warehouse Ltd v Mills

[2016] ICR 252

- Amendments to claims

Drake International Systems Ltd v Blue Arrow Ltd [2016] ICR 445

- Addition of respondents





S.18(8): “a certificate under subsection (4)”

HM Revenue & Customs v Serra Garau [2017] ICR 1121

Second certificate does not restart EC extension

Certificates: Correctness

ETPR 2024

- ❌ R.12(c) – No EC No, not relevant proceedings/exempt
- ❌ R.13(c) – relevant proceedings but no EC No/stated exemption
- ❌ (d) – exemption cited is wrong





Certificates: Error

⚠ R.13(1)(e) – not the same EC No

⚠ (f) – EC claimant different

⚠ (g) – EC respondent different

(3) & (4) *“must reject... unless the Tribunal considers the claimant made an **error** and it would not be in the **interests of justice**”*

Pre-8.10.20 *“minor error”*

Certificates: Acceptance

Cottrell v Avon Cosmetics Ltd
[2022] EAT 89 (HHJ Tayler) -
EC no. for agency not R on ET1.

- Blue Arrow Ltd –not a free pass
- “Acceptance” = administrative,
not a shield to judicial order.





Certificates: Admin Oversight

Clark v Sainsbury's Supermarkets Ltd [2023] IRLR 562 (Bean LJ)

No power for EJ to correct staff failure to apply rr.12-13.

Instead: order re non-compliance /strike out (r28; 38). E.ON Control Solutions v Caspall [2020] ICR 552 gone?

Certificates: Second Certificate

Speakman v Goodsir Commercial Ltd (20201967/19)

Intentional use of second EC No on ET1 no bar to find 'error' & potential relief. Form over substance.

Robertson v Age Refined Ltd (4109906/21) – 'error' escape provision not just for type-os





Theory

S.18A – certificate = jurisdiction

S.18A(4), (8) + i.e. 207B - first
certificate = time extension

r.12 – ET1 inc. “an” EC number

r.13 – EC match “*the... certificate
to which... conciliation
number relates*”



Don't be in situation if possible

Takeaway Points

- EC is the jurisdictional gate
- Make sure ET1 & Cert match
- 1st certificate = relevant to T/L
- If sift done – matter for strike out
- Employers = substance not form





Questions

N^o 18
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