

## LEGAL UPDATE

### **Partial transition pay in the event of part-time dismissal**

Date: 15 February 2019

On 14 September 2018, the Supreme Court gave an important ruling extending the right to transition pay to cases where the employment contract only partially ends or where the working hours are reduced.

#### **Part-time dismissal**

The law does not actually know the phenomenon of part-time dismissal. In practice, however, employment contracts do in fact get partially terminated. This occurs, for example, in the event of a reorganisation where jobs are only made partially redundant or if an employee is permanently unfit for work for the full-time version of a job but still able to work part-time.

The Supreme Court now acknowledges instances of part-time dismissal if the reduction in working hours has taken the form of:

1. partial termination;
2. full dismissal followed by a new, amended employment contract; or
3. an amendment to the employment contract.

#### **Substantial and permanent reduction in working hours**

In its ruling, the Supreme Court does, however, restrict the possibility to partial transition pay in the event of part-time dismissal to cases involving both a *substantial* and a *permanent* reduction in the employee's working hours. A *substantial* reduction in working hours is a reduction of 20% or more. A *permanent* reduction in working hours is a reduction that is not expected to be reversed.

#### **Scope of the transitional allowance**

If the above conditions are met, the employee is entitled to pro rata transition pay, i.e. calculated in proportion to the reduction in working hours and on the basis of the 'old' salary.

This is a Legal Update from Wouter van der Boon.

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