

***Sickness and Disability Schemes
in the Netherlands***

**Country memo as a background paper
for the OECD Disability Review**

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PART 1: Introduction and main context

1.1 Policy development

Like other Western European countries, the Netherlands has adapted and reformed its social security system since the 1980s. As international competition intensifies, a significant share of industrial production has moved to low-wage countries. The high rate of unemployment that ensued caused a dramatic increase in claims for incapacity benefits and later unemployment benefits. Government spending on social security skyrocketed as a result. Consecutive governments wanted to adapt the system to the trends towards flexibility and individualisation of labour market relations. Their efforts culminated in a complete overhaul of the system in 1987.

Government spending on social security decreased after the system was reformed, but the number of benefit claimants continued to rise. By the end of the 1980s, the proportion of non-active members of the labour force had increased substantially, as more and more workers claimed incapacity benefits. Now, along with income protection, prevention and reintegration were being incorporated into the system. Another important new goal was activation (i.e. encouraging participation in the workforce), which reduced social exclusion and strengthened the income position of those on benefits by helping them get back to work. This shifted the focus towards the conduct of all the parties involved: employers and employer organisations, employees and the trade unions, benefit claimants and implementing bodies. The measures taken in this period were of a different nature than the reforms of 1987. The key issue now was to *increase each party's vested interest* in reducing social security benefit claims.

In the 1990s, several measures were taken to increase the vested interests of the parties:

1. *Financial incentives and disincentives* for employers, employees and implementing bodies were introduced by:
 - increasing the financial consequences of sickness and incapacity for employers (e.g. by introducing employer liability for an initial period of sick pay and contribution differentiation)
 - increasing the financial consequences of sickness and incapacity for employees
 - providing grants for reintegration programmes, workplace modifications and other schemes
 - requiring UWV and local municipalities to outsource reintegration work to private companies.
2. *Responsibility* of employers, employees and benefit claimants for job retention and reintegration was increased by:
 - requiring assessment of workstations for risks to the health, safety and welfare of employees
 - increasing responsibility of employers for reintegrating their sick employees
 - stepping up the obligations of employees, employers and benefit claimants
3. The *activating nature* of the system was enhanced by such means as:
 - toughening the eligibility conditions for benefits
 - reassessing those on disability benefit under the age of 50
 - creating the possibility of 'privatisation' of the disability risk.

With these measures the social security system now offers a combination of income protection and activation. The latter benefits the parties directly involved: resuming employment improves the employee's income position and prevents social exclusion. Also the costs for employers go down because of the differentiated system of contributions.

The social security system is designed to foster long-term employment. This requires an incentive structure that promotes participation. The social security system should prevent employees from having to claim benefits (prevention) and, should that be unavoidable, the system should encourage benefit claimants to seek another job or return to work (i.e. reintegrate) as soon as possible. Furthermore, the system should stimulate employers to keep their employees and hire jobseekers.

The most important changes now in force in the field of disability are:

- Privatisation of the sickness scheme: employer is obliged to pay wages for two years
- Employer is responsible for the reintegration of sick employees (Gatekeeper law)
- New disability act (WIA)
- Differentiation of the contributions regarding disability risk
- Voluntary privatisation of the disability scheme
- Stricter eligibility conditions for benefits
- Reassessment of disability benefit claimants under 50
- More focus on reintegration instruments
- Re-evaluation of the scheme for young handicapped people.

For an overview of institutions working in the field of disability we refer to Appendix 1. Most important are UWV (the Institute for Employee Benefit Schemes WAO, WAZ, WAJONG, WIA, Sickness Benefit Act), occupational safety and health services and reintegration services.

1.2 Socio-economic context

There are some relevant issues that influence the labour market these days. Most issues are important for the whole labour market, and proportionally affect people with health problems or a disability.

Globalisation, increasing international competition and accelerating technological change are the most important general issues affecting labour demand and labour supply. These issues are the main cause for the rise in skill requirements over the last few years. In our economies however, there are many low-skilled people who lack the basic qualifications for participating in this knowledge economy. Their position on the labour market tends to get weaker and weaker. Our challenge for the coming decade is to make sure that these people are integrated in society, and have the opportunity to contribute to the welfare of society. And with the background of an ageing population, that is a very important task, because everyone is very much needed on the labour market.

Apart from the general issues, there is a trend that concerns disabled people, in particular, and others who receive social benefits. This trend can be described as the change in attitude towards social benefits. For people with health problems or a disability the focus is no longer on what these people cannot do, but on what they still can do. This is the reference point for finding suitable jobs for this group and improving their position on the labour market.

1.3 Evidence

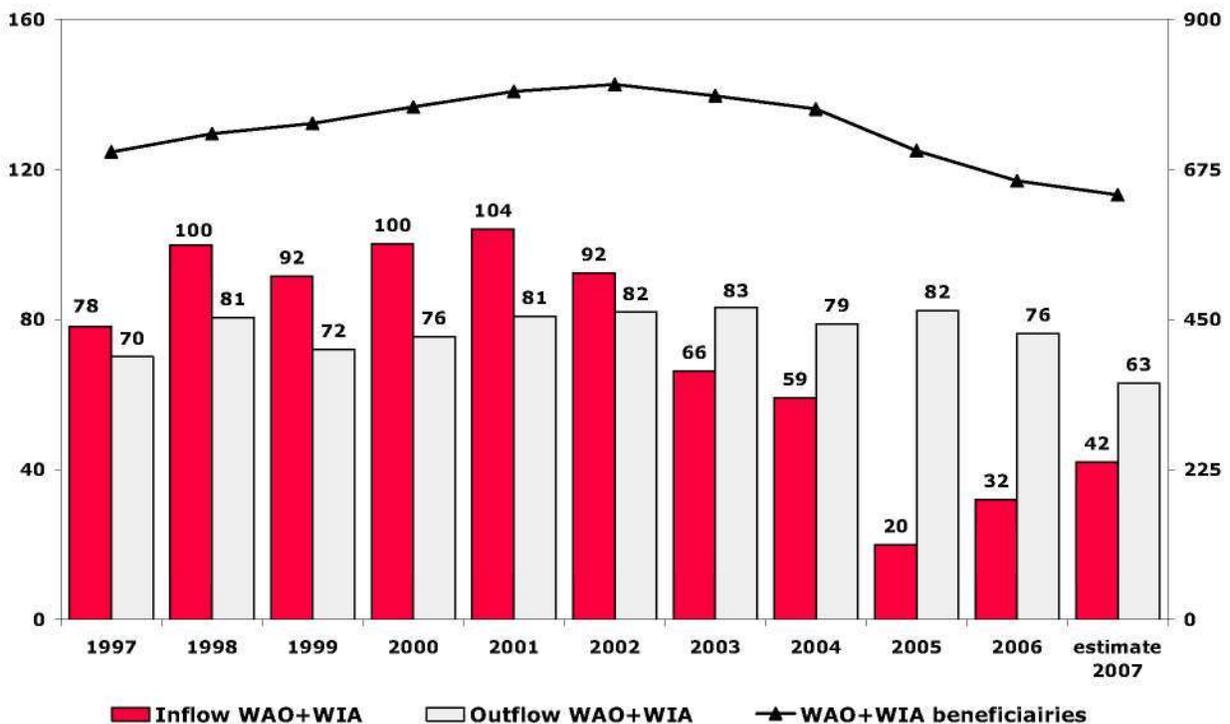
Absence due to sickness and disability-related absence have both been decreasing for some years now. Over the course of 25 years, absence due to sickness declined from a high of 10% in 1980 to roughly 4% now.

The success of the disability reforms is clear from the data on disability: The new influx in disability is down from 100,000 in 2000 to 21,000 in 2006. The disability risk is down from 1.55 in 2000 to 0.46 in 2006.

The graph below illustrates the developments in influx and volume in disability schemes in recent years and demonstrates the effect of the various measures. With the introduction of the VLZ in 2005, the employer's obligation to continue paying salary was extended from one to two years. As a result of this change, the number of new claimants in the WAO incapacity benefit system was very low in 2005. All these measures have helped reduce the number of new incapacity benefit claimants. The reassessment of WAO benefit recipients began in 2004. The new WIA system is the last step in the disability reforms. It is now possible to point out the effects of the various reforms.

To start with, the Gatekeeper law resulted in influx falling from 100,000 to 58,000 in the years 2002-2004 (53,000 new claims and 5,000 re-opened cases) (-42%). The law that lengthened the period of wage payment during sickness by employers from one to two years was responsible for 25-35% less benefits, i.e. 13,000 fewer claimants. The stricter rules for assessment of disability were responsible for 12% less benefits, i.e. 5,000 fewer claimants. These three measures resulted in 61% less benefits. The WIA itself led to 7,000 less benefits.

Figure 1 Development of WAO and WIA volume (*1000)



The table below shows influx numbers in 2006. 2006 was the first year of the WIA. Therefore the influx number must be corrected because of 'overflow' from previous years and because of the re-opening of old cases. We expect the influx in the WIA will increase, and will be on a structural level in 2008. (In 2006 there were also 11,000 new WAO benefits claimants)
 The WIA will be evaluated in 2010.

	Number of new benefits claimants in 2006
WIA	18,007
- IVA	- 3,795
- WGA	- 14,212
• Fully disabled	• 8,906
• Partially disabled	• 5,306

The reintegration of disabled people is still an important issue. In 2003 and 2004 UWV offered around 40,000 trajectories to disabled people. About one third resulted in a job (lasting at least 6 months). IWI conducted a long term effect study of reintegration. It analysed trajectories started in 2001 and concluded that 39% of all trajectories offered resulted in a job immediately after the trajectory ended. Of those not finding a job directly after the trajectory, about 25% found a job at a later stage. About three quarters of all people that found employment still held a job 4 years later. Net effect studies –although not all showing identical results- show modestly positive results of reintegration.

PART 2: Income support programmes

This chapter contains an overview of the sickness and disability benefits, tax benefits and disability pensions, with special attention for young handicapped people and self-employed women. An overview of recent reforms and the activating way in which the benefits are financed is also included.

See Appendix 2 for an overview of the relevant benefit acts.

2.1 Sickness

The employer is obliged to pay wages during the first two years of sickness. Workers without an employer are granted a benefit for two years under the Sickness Benefit Act.

Workers with an employer

The duration of the sickness benefit period has been extended from one to two years as of 1 January 2004. Employers must continue to pay the salaries of sick employees - at least 70% of the salary - for the first two years of sick leave. The legal wage payment obligations are regulated in the Dutch Civil Code.

Most employers top up the wage payments from 70% (legally required) to 100% on the basis of collective agreements; so a supplement of 30% is customary in the first 52 weeks. In the second year this supplement is no longer customary, due to a agreement between government and social partners (2005).

According to the provisions of the Health and Safety Law ('ARBO'), employers are obliged to pursue an active absenteeism policy; a part of this policy is absenteeism counselling. The employer must ask a certified company doctor of the official Health and Safety Executive Organisation ('arbodienst') for advice.

Workers without an employer

The Sickness Benefits Act only serves as a 'safety net' for

- workers who do not have or no longer have an employer,
- temporary workers who do not have a permanent contract with their employment agency,
- home workers; student trainees,
- some other specific groups.

The benefit is 70% of the daily pay¹; the maximum period was also extended to two years.

Female employees are entitled to benefits for pregnancy and maternity under the Work and Care Act, amounting to 100% of the daily wage for a period of at least 16 weeks.

¹ The maximum daily pay is €172.48

The duration of sickness for people without an employer tends to be longer than for workers with an employer.

About one third of influx into the WIA stems from the group without an employer, while this group represents only 13% of those insured under the WIA.

2.2 Disability: WIA

The Dutch government has replaced the Invalidity Insurance Act (WAO) with the Work and Income (Employment Capacity) Act (WIA) with effect from 1 January 2006. The WIA, like the WAO, makes no distinction between social risk and occupational risk.

The WAO is in force for people who reported sick before 1 January 2004 and who were assessed as disabled. People who reported sick on 1 January 2004 or later are entitled to a WIA benefit. In this memo we focus on the WIA.

The new WIA consists of two statutory provisions:

- the Regulation governing income protection for individuals registered as wholly and permanently incapacitated (IVA)
- the Regulation governing the re-employment of partially incapacitated individuals (WGA).

The WIA has two aims: to promote reintegration and to protect the incomes of employees who are restricted in the work they can do due to illness or incapacity. The primary aim is to promote a return to work, i.e. to increase the long-term reintegration of employees with (temporary) health-related work restrictions.

The WIA ties in closely with the proposals of the Socio-Economic Council (SER). The SER consists of 15 employee representatives, 15 employer representatives and 15 so-called Crown Members ('kroonleden') who are appointed by the Government.

IVA: Wholly and permanently incapacitated employees

A fundamental distinction is made between employees who after two years are both wholly and permanently incapacitated and those who are (temporarily) incapacitated. This distinction is based on differences in employment potential. An employee who is both fully and permanently incapacitated is no longer able to earn his own living. The government will therefore assume responsibility for ensuring adequate income protection for this group of individuals through the Regulation governing income protection for individuals registered as wholly incapacitated (IVA). An individual can also qualify for IVA *before* the two years of absence have elapsed if it is clear that the relevant criterion has been met (i.e. the individual is wholly and permanently incapacitated). The IVA is based on payment of 75% of the full daily wage.

Separate attention should be given to individuals who are wholly incapacitated but for whom this condition may not be permanent. Such individuals will qualify for benefit under the terms of the WGA scheme. If after a certain period they are still found to be totally incapacitated, they can be transferred to the IVA scheme without further qualifying conditions. Until then, they will be paid a full WGA benefit of 70% of their daily wage (note: not 75%); their wage-related period (see

hereafter) lasts as long as long as their full incapacitation lasts. Paying benefits to such individuals – who are wholly though not necessarily permanently incapacitated – ensures that they are given every opportunity to recover and return to work while at the same time having the security of incapacity benefit.

For more details about the concept of fully and permanently disabled see Appendix 3.

WGA: Partially incapacitated employees

Following the SER's recommendations, a distinction is made between employees with a limited incapacity for work, i.e. employees who after two years of absence are less than 35% incapacitated, and employees with a substantial incapacity for work, i.e. who are at least 35% incapacitated.

Employees who are at least 35% disabled (subsequently referred to as partially incapacitated) after two years of absence may qualify for incapacity benefit under the Regulation governing the re-employment of partially incapacitated individuals (WGA).

The benefit system for partially incapacitated employees prioritises efforts to maximise their capacity for work. The system tries to encourage these individuals to continue working as much as possible. One proviso is that this labour must always be financially remunerative. The partially incapacitated individual must also be encouraged to use his residual earning capacity. These are the principles underlying the benefit system, which – briefly summarised – consists of the following:

After two years of absence, the partially incapacitated individual can claim a *wage-related benefit payment* under the Regulation governing the re-employment of partially incapacitated individuals (WGA). The level of this benefit is 70% of the (maximum) daily wage if the partially incapacitated individual is not working and 70% of the difference between the (maximum) daily wage and the individual's work-related income if he is working. How long the wage-related WGA benefit continues to be paid will depend on the individual's employment history, in accordance with the WW, and varies between 3 and 38 months.

When the wage-related WGA benefit comes to an end, he will be entitled to a *WGA follow-on benefit* (if the partially incapacitated individual is not working, or is not doing enough remunerative work), and, he will be entitled to a *wage supplement* (if he is doing sufficient remunerative work). The term 'sufficient remunerative work' means that the employee must be earning a monthly wage-related income which is at least 50% of his residual earning capacity

- If the partially incapacitated individual does not meet this criterion, he will be entitled to a WGA follow-on benefit, which is 70% of the statutory minimum wage multiplied by the percentage of incapacity.
- If the partially incapacitated individual does meet this criterion, he will be entitled to a wage supplement which is equivalent to 70% of the difference between the (maximum) daily wage and his work-related income.

The partially incapacitated individual can in principle claim benefit under one of these two schemes until his 65th birthday. An assessment will be carried out to establish for each month whether the individual is entitled either to the WGA follow-on benefit or to the wage supplement.

For more details see Appendix 4.

Responsibility for maximising the employment capacity of employees who are less than 35% occupationally disabled lies with the employer. The underlying aim is for this category of employees to be kept in the labour process wherever possible, either with their current employer or with another employer. Only in cases where the employer has no possibilities whatever to further employ the employee can he be discharged following permission from the Centre for Work and Income (CWI). In such cases, the employee can register an appeal under the Unemployment Insurance Act (WW), provided he meets the eligibility criteria. If an individual experiences a loss of income of less than 35% then he will no longer qualify for incapacity benefit.

Reassessment procedures

People with a WIA benefit can be reassessed at moments determined by the administration, depending on the person's condition. There are no previously or formally established moments of reassessment. There is one exception: people on IVA benefit who have a small chance of recovery (see Appendix 3).

2.3 WAO, WAZ and WAJONG

Disabled employees who got sick before 2004 and who received a WAO benefit keep their benefit. The WIA is not in force for this group.

The WAZ (Self-employed Persons Disablement Benefits Act) was abolished as of 1 August 2004. The WAZ used to insure self-employed people, professionally collaborating spouses and professionals like managing directors/majority shareholders and home care workers against a loss of income resulting from long term occupational disability. The benefit is related to the minimum wage level.

Only self-employed people who became occupationally disabled before that date could, after a qualifying period of one year (so by 1 August 2005 at the latest), be eligible to receive WAZ benefit.

A self-employed person who was already on WAZ benefit on 1 August 2005 will continue to receive this as long as the following benefit conditions are met:

- the self-employed person is more than 25% occupationally disabled;
- the self-employed person is younger than 65;
- the income at the time of the illness was (partly) earned by working as a self-employed person.

Self-employed people may now take out private insurance against the risk of occupational disability. A person who appears to have difficulty in obtaining insurance is eligible for an alternative insurance if he applies for a private insurance within three months after starting up his business.

No medical acceptance or age limit applies to this alternative insurance.

Young handicapped people (disabled before the age of 18) can receive benefits under the WAJONG (Disabling Assistance Act for Handicapped Young Persons).

The WAJONG makes provision for a minimum benefit for young handicapped people. A person is eligible for WAJONG benefit if he is living in the Netherlands, is below the age of 65, and

- is at least 25% disabled on the date on which he reaches the age of 17, or
- becomes at least 25% occupationally disabled after this date (but before his 30th birthday) and has been a student for at least six months in the year prior to the occupational disability.

The WAJONG benefit is calculated based on the extent of the disability and the basis, i.e. the statutory gross minimum (youth) wage. For fully disabled people the benefit is 70%.

Reassessment operation

People with a WAO, WAJONG and WAZ benefit who were born after July 1954 are now being reassessed in a operation that started in October 2004. For people born after July 1959 the disability rules are more strict (Schattingsbesluit; version in force October 2004). People who are reassessed as less disabled or no longer disabled, and who are not entitled for unemployment benefits, receive a temporary benefit to replace the lost disability benefit (maximum 12 months) (called TRI: temporary regulation for income for reassessed disability claimants). See also Chapter C.

2.4 Self-employed women

In the Netherlands the disability law for the self-employed was abolished in 2004. The government has decided to propose a new bill for pregnancy leave and benefits for self-employed women². The aim of this proposal is to safeguard the health of mother and child. If a public regulation is in place, there will be no risk that women might damage their own or their baby's health by working too much before or after delivery. Another reason lies in the fact that self-employed women who cannot work because of the pregnancy and delivery have a disadvantage compared to men in terms of income and continuity of the company.

The benefit will be based on previous income, with a maximum of the statutory minimum wage. The new act will come into effect in July 2008. The benefits will be paid from tax revenues.

2.5 Tax benefits

There are tax benefits to supplement income or alleviate the burden of the costs for health care (special costs of not insured care (e.g. dental care), costs of insurance benefits, diet, transport, facilities, etc.).

The tax system offers deductions from taxes paid for a person having excessive health care costs. The tax system also allows a specific tax deduction for people on WAJONG benefits.

² Letter to parliament 31 August 2007

2.6 Disability pensions

Employees with a disability benefit (WAO or WIA) can get a top-up if that is part of the pension system their employer provides. A disability pension can top-up the benefit above the legal maximum daily wage, or it can give a higher percentage of the basis of the benefit. The government does not intend for social partners to agree on disability benefits that are contrary to the activating WIA system. This means that the pension must not abolish the difference between WGA follow-on benefit and the WGA wage supplement.

Second Pillar (occupational schemes)

There is no legal maximum for levels of benefit. Some schemes result in a maximum of 70 – 80 % of former salary/pay but there are exceptional schemes which result in a maximum of 100% of former salary/pay. Many schemes provide for continuation of rights to old age benefits during periods of disability.

However, due to the recent changes in the disability schemes (WIA), there is a large variety in the nature and in the level of coverage.

In 2005 50 % of all pension schemes included coverage against disability. As a result 75 % of all active members were insured against this risk.

Third Pillar (individual insurance)

In addition to the first pillar pensions and the second pillar arrangements, individual insurance products can be bought. There are certain levels regarding the fiscal treatment of these insurance products (premiums deductible and expenditures taxed).

2.7 Contributions for disability benefits

The contributions to the WIA are paid by the employer. The financial system is based on an activating system: employers with many ex-employees on disability benefits pay higher contributions than employers with fewer employees on disability benefits (experience rating). The contributions consist of two components: the basic contribution (the same for all employers) and the differentiated contribution. This latter one differs per individual business and is applicable to the first ten years of every benefit for employees of that business. Employers who have opted to carry the WGA risk themselves only pay the basic contribution. These employers have opted to carry the financial risk of disability of their employees fully themselves for the first ten years, or to take out insurance with a private insurer. The IVA benefits are paid out of the basic contributions.

The contributions to the WAO are paid by employers. The contributions are flat-levelled starting in 2008; there is no differentiation based on the number of benefits of the individual employer.

In the past, premiums for the WAO were experience-rated. Koning (2004) analysed the impact of changes in premiums. Employers seem to have been triggered to increase preventative measures once they experienced an increase in premiums. Koning finds the impact of experience rating to be substantial, amounting to a 15% reduction of influx into the disability benefit system.

2.8 Recent reforms and reforms under consideration

There have been major reforms over the past five years. The most important are the change from WAO to WIA, the reassessment of all disabled people under the age of 50, the longer period of wage payment during sickness during which the employer is fully responsible for the reintegration of the sick employee, and the Gatekeeper Act.

These reforms were introduced in response to skyrocketing numbers of disability benefits claimants. This increase in claimants meant high costs for employers and society in general, a smaller workforce and social exclusion for those disabled people without a job. The government stresses the importance of participation for all citizens.

The most recent reforms were those proposed by the new cabinet: the higher level of the benefit for fully disabled people in the WAO, WAZ and WAJONG (75% instead of 70%), the lower age limit for the application of stricter rules for the reassessment operation (45 instead of 50 years) and the prolongation of the TRI benefit (from six months to one year). A bill is being discussed in parliament at the moment³. The Regulation for assessment disability laws (Schattingsbesluit arbeidsongeschiktheidswetten) has already been amended⁴. People on WAO, WAZ and WAJONG benefits born between July 1954 and July 1959 are being reassessed in the reassessment operation, however, under less stringent rules (Regulation for assessment disability laws before October 2004).

The higher level of benefit has been granted from July 2007 onward, so before the act will come into effect. Parliament has been informed about this and has agreed with this proposal. The higher level is possible because of the decrease in the number of disability claimants. The adjustment of the TRI is already in force⁵.

The reassessment operation will be completed by July 2009.

The following new initiatives are currently being drawn up:

- The privatisation of the WGA: the new cabinet plans a change to the implementation of the WGA in the sense that all employers will bear their own risk; UWV in that case will not give insurance for partial disability. The administration of the WGA will be evaluated to this end in 2009. New initiatives will be taken after the evaluation.
- More focus on reintegration of (formerly) disabled people: subsidies of wages and working-with-a-benefit. See chapter C.
- WAJONG (the disability scheme for young handicapped people): see below

WAJONG

On 28 September 2007 the cabinet send a letter to parliament about the position of people with a WAJONG benefit.

The letter was drawn up because the number of young disabled people is growing significantly. In 2007 161,000 people were claiming a WAJONG benefit. We expect that if nothing changes,

³ Kamerstukken II, 2006-2007, 31 106

⁴ Staatsblad 2007, 324

⁵ Staatscourant 31 March 2007 (no. 57) and 29 June 2007 (no. 123)

this number will grow to 300,000 by 2040. About one quarter of the young disabled people have a job (with a certain amount of support mostly). The cabinet thinks it unacceptable that so many young people are excluded from society and the labour market. Young people with a disability must also be given the chance to participate in society. First of all we need to examine if they can get an ordinary job; if that fails we have to look for 'supported jobs'.

To increase the chance of finding an ordinary job, young people with a disability must get help before the age of 18 (when benefits can first be claimed). Children with a disability get special education in special schools. It is therefore important that these schools work together in regional networks and with job centres. There must be more attention in schools for increasing prospects and providing better preparation for the labour market.

Young disabled people who have chances on the labour market must not get a benefit at the age of 18, which would drive them out of the labour market forever. However this is often the case now. The fact of receiving benefits is in itself a disadvantage for them.

That is why the cabinet has started exploring the possibility of whether young people with a disability can be granted a WAJONG benefit at a later date, rather than from their 18th birthday. In the meantime the school and the administration board can try to support them in pursuing education and in finding a job with the most suitable support. In that way the young people gain more prospects. This only applies to people who have some chance on the labour market. The current system will remain in place for those with a severe disability and no prospects of a job.

2. 9 The relationship between various social protection programmes

Schemes for early retirement have been abolished, with an exception for older workers (born in 1948 or before, depending on the specific regulation). For the most part people receiving disability benefits cannot apply for early retirement benefits.

If healthy workers work to an older age than before instead of taking early retirement, it is possible they may become sick and disabled instead.

In the Netherlands there is no difference between social risk and professional risk (occupational disease or industrial accident). The right to disability benefits does not depend on the reason for disability.

This is a little information on flows between benefits. Recently more information has become available on flows between social assistance and the WAJONG benefit. This increased flow is caused mainly by the increased financial incentives for municipalities.

About one third of the influx into the WIA consists of people receiving sickness benefit (workers without an employer, such as those who are unemployed, those in temporary jobs, etc.).

2. 10 Collective agreements and occupational schemes

On 3 July 2007 the minister sent a report to parliament on collective labour agreements (CAOs). One of the items in the report concerned was wage payment during sickness, and the cases in which employers pay more than the obligatory 70%.

In 2004 the cabinet and the social partners agreed that they would not pay more than 170% of the wages during the first two years of sickness. This agreement implied the possibility of making more specific labour agreements to stimulate reintegration. The aim is to give financial incentives for reintegration.

There were 116 agreements under examination.

Content of agreements	Number of agreements	Number of agreements including 100% wage in first year of sickness	Number of agreements including less than 100% wage in first year of sickness
A: < 170%	4	-	4
B: = 170 %	46	36	10
C: > 170% in case of reintegration	41	26	15
D> 170 %	25	5	20
Total	116	67	49

In 50 of the 116 agreements examined the wage payment in case of sickness is less or equal to 170%. In 41 agreements the wage payment can be higher if the employer is making enough efforts towards the employee's reintegration. In 26 of these 41 agreements the wage payment in the first year of sickness is 100%; in 15 agreements the wage payment is less. If the employee is not doing enough, he gets only 170%.

In 25 agreements the wage payment is always higher than 170%, but in 20 cases the wage payment in the first year is less than 100%.

The agreements in the categories A, B and C concern 78% of the agreements examined. In those cases the agreements on wage payment stipulate (unconditionally) no higher payment than 170%. These agreements concern 83% of all employees under examination.

The cabinet concluded on the basis of earlier surveys in this field that the social partners implemented this instruction sufficiently.

Another item under examination was top-up on disability benefits paid by the employer.

NB: most agreements about disability pension are included in occupational disability schemes. See also 2.6.

In 82 (67%) of the agreements under examination, agreements are being made about those top-up benefits: agreements about payments, and agreements about making an exploratory study of insurances. In 34 sector pension funds and 29 company pension funds agreements have been made about top-ups on disability benefits.

43 agreements provide for a top-up on the wages in case of disability of <35% (in which case there is no right to a disability benefit). The new wage an employee receives after his period of sickness is supplemented with a certain percentage of the old wage (50-100%), depending on the disability percentage. The duration is 1 to 5 years.

In case of partial disability (35-80%), 40 agreements stipulate *indications* for top-up benefits. In most cases (33 agreements) this concerns the wage-related benefit (the first phase of the benefits for partial disability. 9 agreements include a top-up during the phase following that.

In case of total disability under the WGA (not permanently disabled), 23 agreements provide for a supplement for 2 – 5 years, for example 80% instead of 70%.

In case of total disability under the IVA, 30 agreements provide for a supplement for 1 – 7 years (or until the age of 65 or the duration of the IVA benefit).

In some cases we see the following agreements:

Possibility of a personal (private) insurance for the 'WGA-gap' (the difference between wage supplement benefit and the follow-on benefit); discount on those insurances; division of the contribution between employer and employee. In some cases supplements are still under discussion.

The WIA makes it possible for an employer to assign a part of the WGA contributions (or the WGA costs in case of an employer who bears his own risk for the WGA) to the employee (with a maximum of 50%). This is the case in 3 agreements.

PART 3: Employment support programmes

Introduction

In this chapter we follow mainly the division between the period of sickness (two years) and the period of disability (after that if there is no recovery). There are reintegration measures for employees and for employers.

In this chapter we discuss:

- reintegration instruments during the period of sickness (including information about the Working Condition Act and the Safety and Health Covenants)
- reintegration instruments during disability
- Sheltered Employment Act (WSW)
- disabled people in social assistance
- reintegration in the reassessment operation
- studies on effects of reintegration.

We give also information about recent reforms and reforms under consideration.

3.1 Prevention and reintegration in the period of sickness

Wage payment during sickness (instead of sickness benefits) and reintegration in this period are the responsibility of employers (apart from 'vangnetters', section 2.1). This period lasts two years. This responsibility to reintegrate the employee includes reintegration at his own job, at another job with the same employer or in a job with a different employer. The main laws governing the first two years of sickness are the Gatekeeper Law and the Law on wage payment during two years (VLZ).

Gatekeeper Law

During the two-year period of sickness, both the employer and the absentee worker must do all they reasonably can to improve the individual's chances of returning to work and to exploit all opportunities to reintegrate him into the employment process. If the employer has failed to do his best to reintegrate an employee, he will be required to continue paying that employee's salary for up to a further year. This threat of extended salary payment will encourage employers to take all possible steps to re-employ their absentee employees at the earliest opportunity.

The employer and the employee can ask the 'expert opinion' of a physician of UWV, if the employer and employee do not agree with one another.

The evaluation study on the Gatekeeper act found the Act to be successful. Long term sickness declined and influx into disability decreased (for further details see Reijenga (2004)).

For more details about the Gatekeeper act see Appendix 5.

Health and safety Act/ Working Condition Act

The Working Condition Act aims to create a healthy working environment and aims to prevent sickness and disability. An important element of the policy is the sector-based approach, aimed at encouraging self-activation among the social partners.

The employer also needs to facilitate the working conditions of the employee to prevent absence due to sickness or stimulate reintegration. Furthermore efforts principally comprise a strategy to increase the accessibility and practical uses of knowledge about safe and healthy working conditions. Improving cooperation along the curative care chain is a relatively new approach. Both strategies are essential policy elements to reduce the influx of workers into the occupational disability schemes.

Safety & Health Covenants

Safety & Health Covenants are agreements between employers' organisations, trade unions and the government. They are aimed at improving working conditions (prevention), curbing sick leave and reducing the number of cases of occupational disability. Covenants have been concluded on a sector-by-sector basis since 1999. The unique characteristic of the Safety & Health Covenant approach is that the measures are not imposed top down through legislation and regulations but instead they are stimulated from the bottom up. Local authorities, employers and trade unions work together to develop and fund action plans in various sectors of industry. In the 1999-2002 period, the primary goal of Safety & Health Covenants was to reduce exposure to major occupational risks. This produced positive results but renewed efforts were required in the 2003-2007 period. This is because Safety & Health Covenants are no longer only intended to prevent sick leave and occupational disability. They are also increasingly being used as instruments to help people return to work after a period of illness.

A number of so-called 'second phase' covenants have been concluded to stimulate the return to work after a period of illness or disability. A second phase covenant is usually a supplement to an existing covenant. However, they can also be agreed upon in sectors without a Safety & Health Covenant. The main difference between second phase covenants and normal Safety & Health Covenants is that they are specifically aimed at reducing sick leave and decreasing occupational disability by at least 20%. 275 million euro has been made available by government for the implementation of the covenants.

In those sectors where the Safety & Health Covenants have already expired, the parties involved have come up with various ways of ensuring that the results are long lasting. These methods include retaining the practices laid down in the covenants or maintaining revised practices and working methods as prescribed in the covenants. Or by incorporating agreements in policy or another form of standardisation or by codifying the arrangements in Collective Labour Agreements (CAOs). The report shows that 57% of the sectors confirm and work out the arrangements dealing with working conditions in CAOs. CAO provisions have a firmer legal basis and can ensure that social partners pay continual attention to working conditions in their own sectors and the workplace.

Safety & Health Covenants have more far-reaching impact than just on the stated immediate goals. Permanent new provisions have been created, which are already contributing to efforts to decrease sick leave or are expected to make a valuable contribution in future. These measures include:

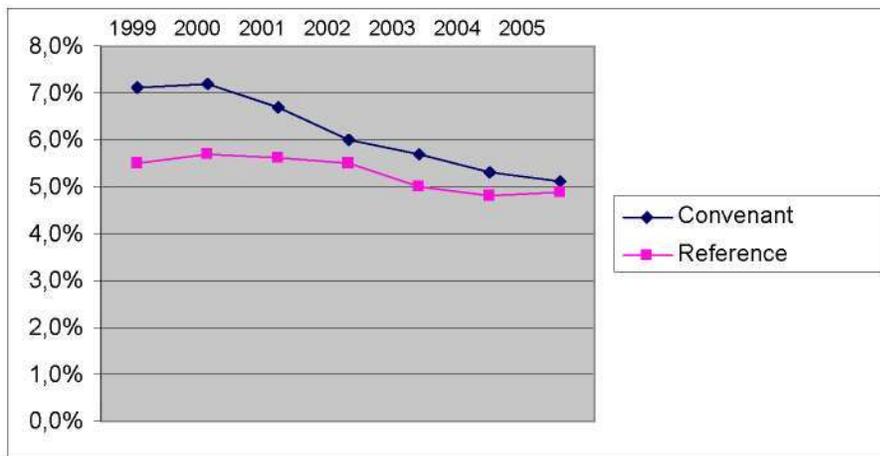
- establishing expertise centres in various sectors;
- setting up websites for specific sectors containing specialised information about the relevant covenant;

- working according to a ‘participation model’ in university hospitals, which all have a special group responsible for implementing the covenant;
- appointing experts in occupational safety and health (e.g. in construction);
- establishing safety and health service offices specifically for certain sectors (education).

Results of covenants

In general, the targets set for reducing sick leave and decreasing the number of cases of occupational disability were easily reached, in some cases by a wide margin. Veerman et al (2007) estimated that in industrial sectors with a covenant absence due to sickness decreased by 33.7% between 1999 and 2005, while absence due to sickness declined by 10.9% in sectors without a covenant (see figure XX).

Figure 3.1 : Absence due to sickness in covenant sectors and reference sectors (1999-2005)



Source: (De meerwaarde van de arboconvenanten – Ontwikkeling van het verzuimvolume 2000 – 2005 in branches met en zonder arboconvenant, Astri (2007)

Naturally, there were also other contributing factors, such as the economic situation and the new Gatekeeper Improvement Act. It is, however, clear that sick leave is declining more rapidly in those branches which have endorsed Safety & Health Covenants than in sectors without a covenant.

The additional decline in sectors with a covenant is a cost reduction of 450 million euro every year. Sectors with a covenant are also more inclined to improve labour conditions.

Recent reforms and reforms under consideration

Sickness benefit act: a new bill for a more activating system

People on sickness benefits are of special interest because a third of all influx into WIA stems from this group. The UWV is responsible for the reintegration of those on sickness benefits. On 16 December 2006 the cabinet sent a bill to parliament aimed at improving the reintegration of people on sickness benefits. The bill’s aim is to translate the line of activation ordinary employers have for their employees to the UWV for the employees on sickness benefit.

Reintegration of employees on sickness benefit is more difficult than “ordinary” employees with an employer. Employees with an employer can easily return to their old job when they get better partially, or they can take on another job at the same employer. For people without an employer this is impossible; they have to look for a new employer while still being partially sick.

The bill removes a number of obstacles to the reintegration of sick employees:

1. The concept of illness: somebody is entitled for a sickness benefit if he can no longer do all aspects of his old job. The bill changes this definition to read: no longer be able to do the most important aspects of his old job. So if he cannot do certain minor aspects of his old job, he is no longer considered ill. This concerns employees without an employer.
2. The concept of fitting labour: the longer someone is on benefit, the more kind of jobs he is obliged to look for. This regards employees with and without an employer.
3. UWV draws up a ‘plan of rehabilitation’ for those on benefits and is itself more active in the reintegration process. This concerns employees without an employer (for people on benefits but with an employer, the employer is responsible to draw up such a plan).

On top of that the minister of SZW has drawn up a new ‘Regulation on the process of those on sickness benefit’ (Regeling procesgang vangnetters). This regulation states what obligations both the UWV and employee hold in connection with the employee’s reintegration.

The Second Chamber has passed the bill. The First Chamber is discussing it currently. The new act will hopefully come into effect in January 2008.

The new Working Condition Act (2007)

In 2007 a new Working Condition Act (Health and Safety Act) came into effect. The switch to less detailed regulations and more customisation is consistent with the policy of prevention, absence through illness and reintegration. It means that employers and employees will together bear more responsibility for safety, health and reintegration into the workforce.

The Act defines target regulations specifying the level of protection that companies must provide for their employees to enable them to work in a safe and healthy way. These target regulations will be described as specifically as possible. It is the task of the employees and employers together to determine how they will interpret these target regulations. This interpretation will be recorded in a ‘Health & Safety catalogue’. The employer will consult with the Works Council (OR) or the personnel representative body (PVT) about matters that affect the company’s working conditions policy. In this way, they can jointly decide on the best interpretation of that policy for that specific company.

Health & Safety catalogue

A Health & Safety catalogue describes the various ways employers can comply with the target regulations drawn up by the government. The responsibility for compiling and publishing the Health & Safety catalogues is borne by the employers and employees (or associations of employers and employees, for example, in a particular sector or industry). The Health & Safety Inspectorate checks whether the health and safety catalogues compliant with the statutory regulations. As soon as a tested Health & Safety catalogue has been drawn up, it is used as a frame of reference for the inspection.

A few sector catalogues have been made since the new Act came into effect in 2007. It is too early to say anything about the effectiveness of the new policy and incentives.

3.2 Reintegration during disability

For people who are disabled there are roughly two types of reintegration instruments: reintegration trajectories and reintegration facilities.

- Reintegration trajectories are intended to help people receiving disability benefits back to work. This may include for example (re)training and schooling. (3.2.1)
- Reintegration facilities are instruments needed by (partly) disabled people who are either working or in a reintegration process to go back to work. (3.2.2) This may include transportation to work, facilities for blind people, job coaches, wage dispensation, etc. There are also specific rehabilitation and schooling institutions for disabled people.

Instruments are available for all disabled people, i.e. people on benefits (WAO, WGA, WAZ, WAJONG, Sickness benefit) and people with a structural functional restriction (in the opinion of UWV or CWI).

Some instruments are available for a specific group (e.g. wage dispensations only for WAJONG). People receiving disability benefits from private insurers are excluded from the use of trajectories but may make use of reintegration facilities. These people's employers have opted out of the public system, for the financial consequences of benefits and for the reintegration of those on benefits.

For employers there are several facilities: no risk policy, subsidy, rebate of contributions for social security. These are discussed in chapter 3.2.3

There is a specific regulation for young disabled people on benefits (WAJONG) who need special educational counselling. Under this regulation there are several educational institutions that offer these people a trajectory of a maximum of three years. These trajectories are meant to provide these people with an educational level which they cannot reach in regular school facilities. The ultimate objective is to bring the beneficiary to the labour market. Until 1 January 2006 these institutions were directly subsidised. As of this date the regulation has been privatised, institutions have to tender for projects under this regulation from the public agency UWV.

3.2.1 Trajectories

The main focus of the reforms in the past years is to tailor the reintegration activities more individually to the needs and wishes of the disabled and to offer the disabled more freedom of choice.

The IRO is an important example of this reform. Another aspect of this is the introduction of reintegration coaches. They assist in tailoring the reintegration to the specific needs of the disabled.

IWI (report 'Burger aan zet') has evaluated the increased influence of clients on the reintegration process and concluded that this works. There is a clear positive indication about the influence of

the clients and motivation on the one hand and the results of reintegration on the other hand. IWI is presently doing more research on this subject.

The WIA, WAO, WAZ, WAJONG and ZW contain reintegration instruments aimed at promoting the participation in the labour process of people with a structural disability.

These instruments are aimed at the retention of labour and/or the return to the labour market.

The reintegration market for help to disabled people was privatised in 2002. This means that private companies tender for contracts with the UWV to reintegrate clients.

UWV can buy a regular trajectory for a person on disability benefit. This can include schooling, training, interviewing, etc. It also can include a trial placement. The beneficiary can work for a maximum of three months at an employer without being paid (he can keep his benefits). A condition for this is that employer intends to hire the employee after the trial placement.

A new option was introduced in 2004 allowing disabled people to design their own 'Individual Reintegration Plans' (IRO). This IRO followed upon an experiment with a so-called 'Personal Reintegration Budget' (PRB). This PRB is still available in three regions. We will not discuss this experiment in detail because of the low numbers of users: 805 people chose for this kind of plan, and because no information is available on the placement rates.

Most reintegration is paid for by UWV on the basis of the success of the plan. Because the success of the plans provided by private companies is measured by the numbers of people getting jobs, the focus of government and UWV is not so much on the exact content of the trajectories, but on the results.

Table 3.2.1 presents an overview of all trajectories started in a certain year. The number of trajectories declined from 2003 to 2004 because it depends upon the number of beneficiaries and composition of that group.

Table 3.2.1: Placements of trajectories started in 2002, 2003 and 2004 (disabled people)

Influx group⁶	Net Influx	Placements	Placement %
2002	25,996	8,797	33.8%
2003	42,328	13,068	30.8%
2004	39,496	11,357	28.6%

Source: 4th quarter report from the UWV.

The IRO means that somebody has the possibility to plan his own reintegration path and can decide which means (such as work placement, application training, education) he makes use of. He also has the opportunity to choose his own reintegration company.

The beneficiary in question arranges his reintegration IRO with the implementing body UWV; UWV in its turn arranges the IRO in question with the private company after assessing the content of the IRO.

⁶ Data on influx group in the 1st quarter of 2002 not available.

The maximum period of the IRO is two years and the total maximum cost which is in principle acceptable is 5000 euro. Payment is based on the result obtained by the company signing the contract. Usually this payment is 50% up front and the remaining 50% when a person has a job for at least 6 months. For specific groups the financing may be changed to 80%/20%.

From 1 January 2004 to 1 April 2007 about 25,000 partly disabled people chose an IRO as a way of reintegrating. In the same period about 60,000 partly disabled people chose a regular trajectory. Numbers of those choosing IRO continue to rise.

Of these 25,000 people using an IRO, 45% had a WAO/WAZ benefit, 15% had a WAJONG benefit and about 40% had another benefit (e.g. a WIA benefit) or lost their benefit in the reassessment operation. These people may have had an unemployment benefit.

Compared to people on regular trajectories, there are no differences in age or sex composition of the two groups. People using an IRO however are less often fully disabled (30% vs 42% on a regular trajectory). More than a third of all disabled people using an IRO has higher education (bachelor or master). One could argue that IROs are more cost effective. These figures are however provisional because not all trajectories which have started have been completed. In addition, this simple estimate of cost effectiveness does not take into account differences between the two groups (IRO versus regular) in terms of motivation, capabilities, etc.

Occupational rehabilitation officers of the UWV and clients are on average more positive about IROs than regular trajectories. Clients applying for an IRO are more motivated and better able to cope.

Clients appreciate the freedom of choice the IRO offers but not all clients use the opportunity to choose their own reintegration company. About one third follows the advice of the reintegration coach from the UWV or of the occupational rehabilitation officer in charge. To use the freedom of choice the market needs to be transparent. Clients are of the opinion that this is not the case. The success rate of IRO is about twice as high as ordinary trajectories.

3.2.2 Reintegration facilities for employees or self-employed

The following instruments are discussed:

- Job provisions can be given to someone who finds work as an employee or as self-employed, to someone who starts a study or to someone who starts work on a trial basis. The facility must be necessary and make it possible for the person to go to work or study. Types of provisions:
 - 'transportable facilities' suited for an individual person, e.g. a computer for a blind person or a special kind of desk; these kinds of facilities belong to the person and can be taken with him to another job.
 - Transport facilities: money for transport by car, taxi, etc., to go to the workplace or to study
 - Intermediate facilities for people with a visual, aural or movement disability (e.g. interpreter for the deaf)
 - Personal coaching on the job.

These facilities can also be given during the period of sickness.

- **Wage supplement**
A person on disability benefit who reintegrates as an employee or as self-employed, and gets a wage lower than his remaining labour capacity (defined by UWV), gets a supplement to his wage (or income). This supplement can be given for four years at the maximum level, and decreases each year. This concerns people on WAO, WAZ or WAJONG benefits (also young disabled people younger than 18 years of age) and people who lost their benefit in the reassessment operation. This does not concern people on WGA benefits.
- People on WGA, WAO, WAZ, WAJONG or Sickness benefits who start to work as self-employed can get a 'starters-credit' of at most 31,502 euro if the labour market position is suitable and if being self-employed is a realistic option for him.
For the self-employed starting with a disability benefit, there is a lower 'hour criterion' for tax benefits.
- The structure of the benefits has the following characteristics to promote reintegration:
 - No changes to the level of the benefit during vocational training and during one year afterwards
 - When receiving more wage than the remaining earning capacity, the benefit is lower instead of a lower degree of disability (anticumulation) (WAO three years, WAJONG five years)
 - Daily wage increased after returning to a better paid job
 - Daily wage guaranteed for five years for disabled people >45 years
 - Shorter waiting period if disability increases while working
 - And of course the structure of the WGA itself.

3.2.3 Facilities for employers

The financial consequences of hiring or employing employees with a structural functional limitation are compensated by the following measures:

- **No risk policy:** employee gets a sickness benefit from UWV; employer can deduct the benefit from the wage he has to pay during sickness. Maximum duration of this possibility is five years (for WAJONG permanently disabled).
This concerns:
 - Employees with a WIA benefit and employees whose WIA benefit ended before the employment
 - Employees who have or had a WAJONG benefit
 - Employees with a structural functional limitation, and without a job for at least two years, who are not able to work more than 65% of a normal working week
 - Employees who had or have an recommendation for sheltered employment (and are working outside sheltered employment)
 - Employees who are less than 35% disabled after two years of sickness, are not able to work at their own employer, and get a job with another employer

- A specific category of young disabled people
- People who were ‘labour incapacitated before the introduction of the WIA,’ during the first five years
- Rebate of contributions for disability and unemployment; employer can apply the rebate without previous request (max 2,042 euro a year for three years)
- Wage dispensation for young disabled people who, due to their sickness or disability, are incapable of performing labour which justifies payment of minimum wage. In these cases the UWV determines the wage level the employer has to pay; this can be less than the minimum wage; both the employer and the employee may claim wage dispensation. Minimum is six months, maximum is five years; prolongation is possible. Dispensation is only possible for ordinary jobs (not sheltered employment).
- Employers are eligible for subsidy if ‘non-transportable facilities’ (e.g. elevators for wheelchairs) are necessary to enable a person with structural functional limitations to work and if the costs exceed a certain threshold.

Wage dispensation:

See table below for numbers of new wage dispensations granted.

WAJONG wage dispensation granted

year	Number of young disabled people with one or more grants
2002	2,125
2003	2,100
2004	2,272
2005	2,543
2006	2,837

In 2005 4,328 WAJONG beneficiaries were working in ordinary jobs and received wage dispensation. This is 31% of the WAJONG beneficiaries working in ordinary jobs.

Recent reforms and reforms under consideration

In the new Coalition agreement of 2007, the new cabinet decided to help create 200,000 extra jobs for disabled and unemployed people who face difficulty entering the labour market. This is possible by means of training, schooling, internships, wage subsidies or working while receiving benefits. This plan is now being drawn up.

Employers who hire a person who has been reassessed (under 50), can get a wage subsidy (‘bridge-jobs’). The subsidy is at most 50% of the minimum wage during one year, and can be granted if the employer is serious about hiring the person permanently. The government plans to put this subsidy into effect from January 2008.

3.3 Sheltered employment

The aim of the Sheltered Employment Act (Wet sociale werkvoorziening/ WSW) is to create suitable work opportunities for people with a severe physical, intellectual and/or mental disability who want to work, but are not able to work under normal conditions without a subsidy as a wage

cost subsidy for compensation of the reduced productivity, for guidance on the job and for necessary adaptations of the workplace. The WSW offers the opportunity for work in special sheltered employment companies and for supervised work in a regular job outside sheltered facilities. The objective is to provide adapted work under as normal conditions as possible. The target group comprises people (< 65 years old) who due to physical, mental or psychological limitations will only be able to undertake regular work under adapted conditions. The aim of adapted work is to maintain or develop the labour skills of the WSW target group.

Municipalities are responsible for the WSW. The municipality seeks to ensure that as many people as possible in the target group are offered an employment contract that meets the capability and the needs of the individuals to carry out work in adapted conditions. Municipalities often work together with other municipalities in a job creation cooperative or in administrative units.

There are three forms of work for people within the framework of the Sheltered Employment Act (WSW):

- 1) A person of the WSW target group can work in the so-called sheltered employment companies;
- 2) A person of the WSW target group can also be posted from a sheltered employment company to a regular employer. The employee then officially works for the municipality (or administrative unit) but in practice works in a normal work environment;
- 3) A person of the WSW target group can also sign an employment contract with a regular employer. The worker will be supervised in the workplace (i.e. 'supervised work'). Agreements on supervision are reached in advance with the employer and employee. In the case of supervised work, the municipality provides the employer with a subsidy to offset the relatively lower productivity of the worker and to cover the cost of vocational integration and supervision in the workplace.

The WSW provides workers in sheltered employment with largely the same legal position and employment conditions as employees working in normal conditions. The employment conditions are regulated by collective agreement. The sheltered employment collective agreement (CAO-WSW) is reached following negotiations between the Association of Dutch Municipalities (VNG, on behalf of the employers) and the trade unions. The collective agreement contains, amongst other items, provisions on working time, working hours, pay and overtime. When an employee works in one of the two forms of work as described above, he or she receives the CAO-WSW. If an employee has an employment contract with a regular employer the collective agreement of the regular employer is applicable.

The WSW is mainly financed by the state. Municipalities receive a government subsidy for the implementation of the WSW. For the year 2008 2.3 billion euro is available for municipalities to realise 89,917 workplaces within the framework of the WSW. An average of 25,337 euro is available per working position within the framework of the WSW. At the end of 2006 89,817 WSW working positions have been realised and 99,333 people from the WSW target group were working within the framework of the WSW.

Of these people 3% works at a so-called 'supervised workplace' with a regular employer.

19% is posted from a sheltered employment company to a regular employer.

Most (78%) work at the so-called sheltered employment companies.

Moreover at the end of 2006 approximately 19,545 people were waiting for a working position within the framework of the WSW.

An aim of the Dutch government is to get more people from the WSW target group out of the sheltered environment and into jobs with regular employers (supported employment).

Therefore the Dutch government decided that as of 1 January 2005 the Centre for Work and Income (CWI) assesses who is eligible for a job in a sheltered workplace. Before this date, each separate municipality took that decision for its own municipality. The CWI assesses whether the applicant is eligible, determines the term of validity of the eligibility, and decides whether adapted conditions are needed for work to be carried out. The CWI also considers whether people in the WSW target group could and would like to work for a regular employer under professional supervision. If this opportunity exists, the municipality will arrange the employment placement including on-the-job guidance for the eligible applicant. The eligible applicant can also arrange his own employment placement with the consent of the municipality. The municipalities remain responsible for people finding a work position in sheltered employment.

From 1 January 2006 the Dutch government made it more attractive for employers to employ a WSW person. An employer who offers a WSW person a work position, no longer runs a financial risk in the event of the sickness or disability of the respective person. This 'no risk policy' has been extended and will from now on be permanently effective, instead of the five years under the previous legislation.

The Dutch cabinet also recently made a proposal to change the law (WSW) as of 1 January 2008. The propositions are aimed at: more responsibility for municipalities, more influence for the WSW target group in finding work under adapted conditions and more incentives for regular employers to employ people from the WSW target group.

At the same time the Dutch cabinet also indicated that it wants a thorough discussion about the WSW in the near future. One of the reasons for this future discussion is the problem of the growing waiting list of the WSW target group and the consistency with other existing regulation for disabled people.

3.4 Social assistance

In January 2004 the reformed Work and Social Assistance Act (WWB) was implemented in the Netherlands. The aim of the Act is to get more benefit recipients back to work and to minimise the number of people who end up as benefit recipients. To achieve this goal, municipalities have been given more authority and financial responsibility for benefits.

Under this system, municipalities have greater policy freedom. This must be considered in conjunction with funding mechanisms. Municipalities have therefore been given full financial responsibility for implementing the legislation. Full control of budgeting, together with control of the allocation of resources to help people find work, is designed to maximise the incentive for municipalities to help every able person to find work as efficiently as possible. The funding system is based on the principle that the government covers risks linked to the economic situation while risks related to municipal policy are covered by the municipalities.

The government provides the municipalities with a set budget consisting of an 'income section' and a 'work section'. The budget for the income section changes in line with economic developments. Resources that municipalities have left over from the work section are returned to the government. Municipalities may use funds from the income section as they wish.

The government divides the macro budget (income section) between the municipalities. The budget is divided in a way that ensures municipalities have sufficient resources to meet their obligations vis à vis benefits. The system works well for municipalities that implement their benefits policy effectively. Municipalities with inefficient implementation practices are motivated to improve.

The government also sets a macro budget for the 'work section'. This macro budget is earmarked for financing reintegration activities, which the municipalities initiate with a view to carrying out their reintegration task. The basic concept is that municipalities with a more difficult reintegration task receive a proportionately higher level of resources.

Greater policy freedom implies that under the new system, municipalities can draft their own policy guidelines within the framework defined by national law. Detailed national implementation regulations have been abolished. Municipalities make their own policy on how to activate people with social assistance. Also in the case of (partly) disabled people with social assistance each municipality has its own policy and choices. They can use the 'work section' of the budget to deduct hindrance to work.

Municipalities may, but are not obliged, to use instruments provided by the government.

There is no specific national policy on how to reintegrate people who are labour-incapacitated and receive social assistance. Municipalities have maximum policy freedom in how to reintegrate. There are also no figures available for that group on the national level. A Divosa Monitor 2007 indicates that municipalities estimate about one-third of the people on social assistance are incapable of reintegrating. Reasons municipalities cite are physical impairments (25%), psychological impairments (22%) and social impairments (19%).

3.5 Reintegration in the reassessment operation

From October 2004 onwards, people on a WAO, WAZ or WAJONG benefit, born after 1 July 1954, are being reassessed. This concerns about 330,000 people. A specific effort to reintegrate the people who are less disabled has been started.

Of all reassessed individuals (October 2004 through 2007) who have lost their benefits in whole or in part⁷:

- 36% were working at the time of reassessment; Employers are responsible for further reintegration of this group
- 33% is entitled to a reintegration trajectory because they are unemployed

⁷ Herbeoordeeld...en dan? Van Deursen, Astri, 2007

- 32% is not being given any help with reintegration, either because they think they do not need any assistance, do not want to work, have objected to the UWV's assessment, or for other reasons.

UWV (the occupational rehabilitation officer) draws up a reintegration vision for everyone after reassessment (except in cases of full disability on strict medical grounds). This document describes the best route (back) to work and explains which reintegration instruments are needed.

People with an employer:

During the Participation summit (June 2007) the social partners reconfirmed the earlier statement that employers are responsible for the reintegration of this group. If expansion of the job is not possible, the beneficiary must look for a job with another employer to utilise his remaining earning capacity. UWV can help them.

People without an employer:

UWV provides a trajectory or an IRO. From July 2006 onwards UWV puts the reintegration trajectories for partly disabled people (reassessed people and others) onto the market once more. UWV takes into account personal circumstances, difficulty in entering the labour market and impediments to schooling.

UWV has conducted a study on the effects of reintegration after the reassessment operation. Two groups are being tracked: the 2005 group (reassessed mid 2005) and the 2006 group (reassessed mid 2006). Both groups are being interviewed 4, 8 and 18 months after the reassessment.

Table 3.5.1: Percentage job resumption of unemployed reassessed people

	At time of reassessment	After 4 months	After 8 months	After 18 months
2005 group	0 %	11 %	20 %	32 %
2006 group	0 %	12 %	24 %	-

In total, eight months after reassessment 52% of the people who lost their benefits in whole or in part were working:

Table 3.5.2: Percentage working at 4,8 and 18 months

	At time of reassessment	After 4 months	After 8 months	After 18 months
2005 group	36 %	41 %	44 %	51 %
2006 group	42 %	47 %	52 %	-

This research shows a growing line of the numbers of reassessed people using their remaining earning capacity. The explanation for this is, among other things, more effective support and a better labour market. We also see that the labour market position of the reassessed people is not

yet stable (often temporary contracts and temporary employment). This is partly due to the difficulty this group has in reaching the labour market.

3.6 Effects

There are relatively few studies on the net effects of the reintegration of the disabled. These studies show divergent results.

The ministry will in the end of 2007 publish an analysis of the reintegration policy, given the recent reforms and the benefit scheme of the WIA.

Part 4: The position of people with disabilities in society

Introduction

In this chapter we discuss the role of the social partners and other organisations in the creation of the Gatekeeper law, the relationship between company doctors and GPs, the Equal Treatment Law, some figures on disabled people (subjectively measured) in society and the role of patient and client organisations.

4.1 Gatekeeper law

This act was achieved through the collaboration of representatives from all parties involved in implementation of the act, including employers organisations, labour unions, insurance organisations, occupational health physician organisations, occupational health service organisations, reintegration organisations, patient organisations, governmental organisations, etc. When the law came into effect, these parties continued to hold meetings with each other and the government to reinforce implementation.

4.2 Medical care

Curbing unnecessary medical treatment is an important objective of the sick leave policy. The government makes investments to improve cooperation between occupational safety and health care providers and medical care providers: the safety and health curative cooperation chain. Effective cooperation between (medical) professionals is of importance not only for the prevention of work-related health conditions, but also for timely and permanent reintegration. When company doctors, general practitioners, medical specialists and other medical and paramedical care professionals work together better, they will be able to offer fast and effective care. This helps prevent sickness from leading to invalidity, and limits long-term absenteeism and occupational disability. That is why the government is committed to accelerating the decompartmentalisation of occupational safety and health care and curative care in order to arrive at a comprehensive approach to working conditions, absenteeism and reintegration.

Over the past few years a range of initiatives have been launched in order to improve cooperation between industrial health care providers and curative care providers. Examples include:

- A multidisciplinary health directives programme, which is aimed at optimising diagnoses, treatment and referrals between the different health physicians;
- Cooperation projects between GPs and company doctors;
As of January 2004 company doctors have the authority to refer employees to medical specialists for treatment of work-related conditions paid for by public health care funds. The aim is to boost the harmonisation and cooperation among the experts involved in illness-related absenteeism. Evaluations of several initiatives show that cooperation between occupational safety and health care providers and curative care providers is slowly improving.
- The cabinet has given subsidies for the drafting of medical regulations and protocols suited for all medical officers to assess labour capacity in case of illness. This regards GPs who have

to know what the relation is between a certain illness, the treatment and labour capacity, and medical advisers at UWV.

4.3 Equal treatment legislation

The Act on Equal Treatment of the Disabled and Chronically Ill came into force on 1 December 2003. The Act contains regulations banning (direct and indirect) distinctions on grounds of disability or chronic illness. The term 'direct distinction' means the distinction between people on the basis of an actual or supposed disability or chronic illness. The term 'indirect distinction' means a distinction on the grounds of other traits or behaviour than referred to by direct distinction but which indeed result in direct distinction.

The ban on making distinctions applies to the recruitment, selection and hiring of staff, to job mediation and conditions of employment, to promotion and dismissal. It also applies to vocational training, career information and guidance, and to membership in employers' associations, trade unions or professional bodies. The ban on discrimination does not apply to indirect distinctions which can be justified objectively. The Equal Treatment Commission monitors compliance with the ban on age discrimination and may launch investigations if complaints are made.

4.4 Some figures on people with (subjectively measured) occupational disabilities

In 2006 almost 1.7 million people between the ages of 15 and 65 considered themselves as labour incapacitated because of an illness or disability⁸. Almost 40% of them are working; this is about the same as in 2005 and less than in 2002. The segment of working labour-incapacitated people with a contract for an indefinite period has decreased, and the segment of self-employed has increased. The segment of working labour-incapacitated people with a contract for an indefinite period is the same as in the working population.

The segment of older people (55 and up) in the labour-incapacitated population is growing, but the growth is the same as in the working population as a whole. People in the age range 45-65 make up a larger segment in the total labour-incapacitated group than in the working population as a whole (58% vs 40%). Part of the explanation is that older people have more health problems. Along with older people, less educated people are also over-represented.

4.5 Patient and client organisations

Patients and clients are represented in several ways and have their influence on the policy making process and the implementation of the rules in practice. There are the following organisations:

- CG-Raad: Council of organisations of people with a chronic illness or disability. This body strives for a society in which people with a chronic illness or disability can participate as full-fledged citizens, on the basis of equal rights, equal opportunities and equal duties. The organisation's leading principles are the collective promotion of interests and supporting the member organisations.

⁸ Monitor on labour incapacitated 2006

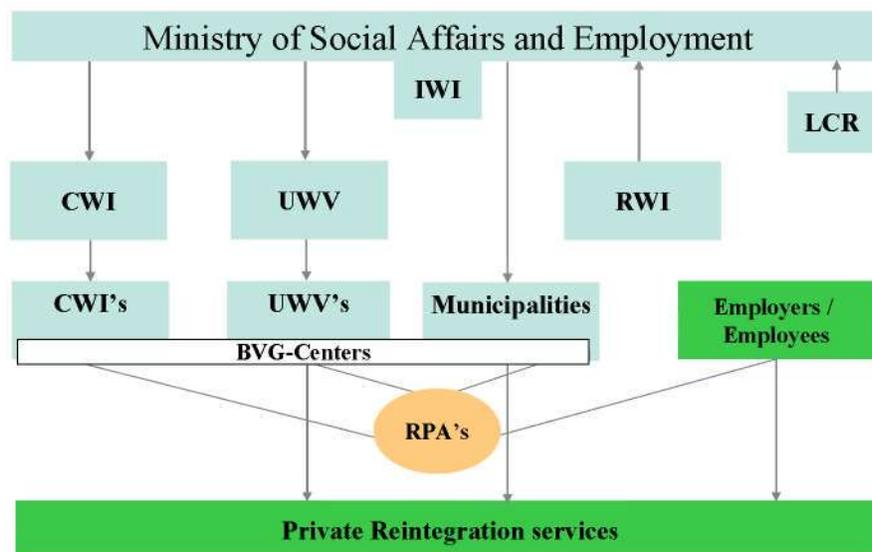
- A National Client Council (LCR): this is a national council of organisations for social security benefit recipients; it holds regular consultations with, among others, the board of the Central Organisation for Work and Income (CWI), UWV and the SVB, and the municipalities regarding the form and realisation of customer participation in the field of work, income and reintegration policy.. In addition, this National Client Council consults the RWI and sends proposals to the Minister of Social Affairs and Employment regarding work and income.
- At UWV a client council exists just for disability matters.

Appendix 1: Actors, consultative and cooperative bodies

The SUWI-Act has created a number of new organisations. Among these are the Central organisation Work and Income (CWI), the Institute for Employee Benefit Schemes (UWV) and the Council for Work and Income (RWI). SUWI coordinates the role of these organisations with some already existing actors.

The next graphic portrays the relevant SUWI-actors. This will be followed by a general description of the various actors.

Structure for Work and Income



The **Central Organisation for Work and Income** (CWI) is an actor created by SUWI. The CWI is, among other things, responsible for the central coordination of the 130 Centres for Work and Income (CWI's). The CWI functions as a 'one-stop shop' for work and income. Jobseekers can apply for a job at one of the 130 Centres for Work and Income (CWI's) and, if needed, apply for benefit. Employers can apply for staff at the Centres. These CWI's do not decide about benefit claims, they refer benefit applicants to the relevant benefit agency (the UWV or municipality).

In the structure described in the SUWI act there is one implementing agency for employee social insurances. This is the **Institute for Employee Benefit Schemes** (UWV). The agency is responsible for implementing the Unemployment Insurance Act (WW), the Disablement Benefits Act (WAO) and the Work and Income According to Labour Capacity Act (WIA). To this end there are, as with CWI, several local/regional UWV's as 'front offices' of the organisation. The UWV assesses benefit claims and takes care of benefit payments. The agency contracts out reintegration activities to private sector reintegration service providers on behalf of its disabled

and unemployed customers. The UWV cooperates with the CWI and municipalities to provide services in the 'chain of work and income'.

Municipalities are responsible for providing social assistance benefits and for the reintegration of Social Assistance (WWB) beneficiaries and are also responsible for the reintegration of non-beneficiaries and those on Survivors Benefit (ANW).

A **Council for Work and Income** (RWI) has been established. This Council formulates policy proposals for the Minister of Social Affairs and Employment on various aspects of work and income. The Council represents organizations of employers and employees and local communities.

A **National Client Council** (LCR) has also been established to hold regular consultations with, among others, the central CWI and UWV organizations and the municipalities regarding the shape and realization of customer participation. In addition, this National Client Council consults the RWI and sends proposals to the Minister of Social Affairs and Employment regarding work and income.

At the regional level the municipalities take care of realising **Regional Labour Market Platforms** (RPA). The Platforms are bodies for regular consultation of actors in the field of work and income. If requested, CWI offers secretarial support to the Platforms.

SUWI has given supervisory responsibility of the implementation structure to a new **Inspection Service for Work and Income** (IWI) of the Ministry of Social Affairs and Employment.

The **Minister of SZW** is in contact with the separate actors (CWI, UWV and SVB). The Ministry directs these actors. There is no management and control of the chain of work and income as a whole. The planning and monitoring cycle is the leading instrument for directing the separate organisations. The following model is used: the Minister provides *Direction* to the implementation by his annual May letter, the organisations have the *Space* to incorporate this in detail in their own implementation plans which then leads to *Results* for which they are *Accountable*. The Minister then again assesses and translates his findings into '*Giving Direction*'. In the Netherlands this is referred to as the '*4R-model*'.

The implementation structure also has **Shared Premises** (*Bedrijfsverzamelgebouwen*: BVGs). The idea behind this is that CWI, UWV and municipalities not only have a joint front office 'one-stop-shop' (via the CWI), but that these organisations are also regionally accommodated together. At the end of 2005, 60 BVGs had already been realised. The formation of BVGs also stands for chain-wide cooperation in a certain region. This is usually related to the CWI region. The purpose of the cooperation is to improve services to the customers.

Apart from those mentioned above, there are also actors, consultation bodies and joint ventures which are not directly mentioned in the 'Structure for Work and Income' illustration. They are described below:

The **Social Insurance Bank (SVB)** implements the general social insurance schemes such as the General Surviving Relatives Act (*Algemene Nabestaandenwet: ANW*) and the General Old Age Pensions Act (*Algemene Ouderdomswet: AOW*).

The **Information Office (IB)** supports municipalities in their statutory duties in connection with social security. This support consists of coordination and providing services in the area of data exchange between municipalities and third parties in the chain of Work and Income. The purpose is to combat fraud and to encourage cooperation between various implementing bodies in the field of social security.

Divosa is the Dutch national association of managers of municipal services in the fields of work, income and social welfare. Divosa offers advice on a more efficient and effective application of local social services. The organisation looks after the interests of managers of these services and customers by exchanging information and views - between working practice and government - on social security, the labour market and social welfare.

The **Association of Dutch Municipalities (*Vereniging van Nederlandse Gemeenten: VNG*)** promotes the interests of all municipalities at other authorities. Moreover, the VNG advises its members (of the municipalities) and individual members (on request) about current developments.

The **Chain Consultation Committee (*Algemeen Keten Overleg: AKO*)** are consultations between VNG, Divosa, CWI and UWV. Municipalities do not participate directly but are represented by the VNG. These consultations determine the chain programme giving guidelines for the 'Work and Income' chain.

Appendix 2 Review of relevant acts

Arbo	Arbeidsomstandighedenwet	Working Condition Act (Health and Safety Act)
IVA	Inkomensverzekering volledig en duurzaam arbeidsongeschikten	Insurance wholly and permanently incapacitated employees
Pw	Wet Verbetering Poortwachter	Gatekeeper Improvement Act
Sb	Schattingsbesluit arbeidsongeschiktheidswetten	Regulation for assessment disability acts
VLZ	Wet verlenging loondoorbetaling	Act on wage payment during two years (VLZ).
WAJONG	Wet arbeidsongeschiktheidsvoorziening jonggehandicapten	Disablement Assistance Act for Handicapped Young Persons
WAO	Wet op de Arbeidsongeschiktheidsverzekering	Invalidity Insurance Act
WAZ	Wet arbeidsongeschiktheidsverzekering zelfstandigen	Self-employed Persons Disablement Benefits Act
WGA	Werkhervattingsregeling gedeeltelijk arbeidsgeschikten	Insurance for partially incapacitated employees
WIA	Wet Werk en Inkomen naar Arbeidsvermogen	Work and Income (Employment Capacity) Act
WSW	Wet Sociale Werkvoorziening	Sheltered Employment Act
ZW	Ziektewet	Sickness Benefit Act

Appendix 3 IVA

Full incapacity

Under the terms of the IVA scheme, an individual is defined as 'wholly incapacitated' if he cannot earn more than 20% of his previous salary. The assessment as to whether an individual is wholly incapacitated can – depending on the situation – be carried out in one of two ways: solely on medical grounds, or based on a combination of medical and work-related factors.

There is one group of individuals for whom it can be established *on medical grounds* that their condition is such that they are no longer able to work. These include those who have been admitted to institutions, those who are bedridden, those who are physically unable to take care of themselves (in other words, those who cannot perform daily physical tasks) and those who are severely psychologically disturbed to the extent that they are no longer capable of personal and social interaction. It is thus clear from the outset that the medical condition of these individuals is serious enough to prevent them from working; in such cases, an investigation of their work-related capacity is not required. Obviously, this is a very small group.

There is also a group of individuals who, while they may have been found to have serious capacity restrictions due to illness, still *have some prospect of employment*. In these cases, an ergonomist will decide whether this means they can carry out *certain functions* and, if so, what they should be paid. The insurance company's doctor will assess the individual's capacities (using the Functional Capacity Checklist in the current CBBS (Claims Assessment and Guarantee System), and the ergonomist will look for appropriate jobs. The individual's new salary is compared to his previous salary and the results of this comparison [(the former wage minus the CBBS wage) divided by the former wage] defines the individual's percentage of incapacity. The ergonomist will initially look for the jobs paying the highest salaries in order to keep the level of incapacity as low as possible. If, however, the loss of salary amounts to 80% or more, then the individual is declared wholly incapacitated.

Long-term incapacity

An individual is registered for long-term incapacity if he has a long-term loss of work-related capacity from which he is unlikely to recover. The insurance company's doctor will assess the probable duration of incapacity due to illness. During this process, two questions must be answered:

1. Is there a medically stable condition, and is there no reasonable likelihood of recovery or improvement in the future? Or can the condition only deteriorate?
2. Is there a very small chance of recovery?

This definition is therefore broader than simply a diagnosis concerning the stability of the condition or the nature and seriousness of the symptoms as such. For instance, the condition itself may still fluctuate, with the individual's capacities and restrictions remaining more or less unchanged. Alternatively, the condition itself may be stable but the individual's ability to function could still undergo a substantial change or improvement. whether the client can be persuaded to alter his behaviour.

Two things are therefore necessary to conclude that a situation has stabilised. First, the chances of the individual medically improving enough to be able to perform some work-related activity in the future (or being able to do so even if he does not medically improve) must be regarded as negligible. Second, all relevant options for reintegration must have been tried. A stable situation is also deemed to exist if it is thought that an individual's condition is likely to deteriorate (or even result in death).

The definition of a 'very small chance' is that the person in the first year of disability has no (or only a very slight) chances of recovery, and the chances of recovery for the years after, remain very slight. The difference between the two types of full disability is that the group with a very small chance will be re-examined in the first five years of disability and the group of wholly and permanently disabled not. Only the last group can get an IVA-benefit before the first two years of sickness are gone.

Appendix 4 WGA

The wage-related period

After two years of illness, the partially incapacitated individual will be entitled to benefit under the WGA. He will initially be entitled to a wage-related WGA benefit payment. The level of this wage-related benefit will depend on whether he is earning an income through work (as an employee or a self-employed person). If, however, he is not working, the level of the wage-related WGA benefit will be 70% of the (maximum) daily wage. If he is working, the level of the wage-related WGA benefit will be 70% of the difference between the (maximum) daily wage and his work-related income.

This form of the wage-related WGA benefit has a number of advantages. First, it clearly indicates the WGA's role in the benefit structure in providing compensation for loss of wages. The level of wage-related WGA benefit represents, after all, 70% of the wages actually lost by the partially incapacitated individual. Second, the benefit structure ensures that the partially incapacitated individual always moves on to a higher income if he does (more) work. Each euro generated in extra work-related income increases his total income by € 0.3, because only € 0.7 is subtracted from the benefit payment. This gives the individual an incentive to do (more) work. Finally, the benefit structure also means that the partially incapacitated individual only has to apply for benefit under the WGA. This is a simplification compared to the existing situation, since at the moment partially incapacitated individuals have to make a claim under both the WAO and – if they are unemployed – the WW.

The partially incapacitated individual can – as he can at present – also make a claim under the Social Security Supplements Act (TW) if his total income – including his partner's income, where relevant – is below the social minimum applicable to him. During the wage-related period this situation will apply chiefly to partially incapacitated employees who, before they became partially incapacitated, were receiving an income at or around the statutory minimum and who had a partner without an income. If the (household) income of the partially incapacitated individual who is receiving a wage-related WGA benefit is below that of the social minimum applicable to him, then he can apply to the TW scheme to have his income made up to that minimum.

How long the wage-related WGA benefit is paid depends on the individual's employment history and will vary between three and 38 months.

The phase following the wage-related period

After the wage-related period has ended, partially incapacitated employees will be able to qualify for benefit under the new Bill as well.

The question of whether or not the partially incapacitated individual uses his residual earning capacity is crucial after the end of the wage-related period. In earlier versions of the Bill an employee had to use his full residual earning capacity. In the present version the employee has to earn at least 50% of his residual earning capacity. If, during a certain month, he has no work-related income or is earning an income that is less than 50% of his residual earning capacity, he will only be eligible for a WGA follow-on benefit. The level of this benefit is 70% of the statutory minimum wage, multiplied by the percentage of incapacity. If, however, his monthly

wage is less than the statutory minimum wage, the WGA follow-on benefit will be 70% of the daily wage, multiplied by the percentage of incapacity. Due to the flat rate nature of this scheme, the higher the daily wage, the greater the reduction in income. Assuming a level of incapacity of 65-80%, the (non-working) average employee (€ 32,000) will receive a benefit payment of 26% of his last-earned wage. For an employee who is on the maximum daily wage (€ 47,000), this is 18%.

As mentioned before, a partially incapacitated individual can claim a wage supplement if in a certain month he earns an income that is at least 50% of his residual earning capacity. The level of this wage supplement – like the wage-related WGA benefit – is 70% of the difference between the (maximum) daily wage and his work-related income. There is also a minimum threshold: the wage-related WGA benefit may not be less than the level of the WGA follow-on benefit, i.e. the wage-related WGA benefit will be at least 70% of the statutory minimum wage multiplied by the percentage of incapacity. This minimum threshold is crucial for those who previously earned (much) more than the maximum daily wage.

The partially incapacitated individual can in principle continue to claim benefit under one of these systems until his 65th birthday. A monthly system applies here, i.e. an assessment will be carried out to establish for each month whether the individual is entitled either to the WGA follow-on benefit or to the wage supplement.

For the sake of completeness, it should be pointed out individuals who are (temporarily) fully incapacitated do not need to be earning an income to qualify for the wage supplement. Moreover, individuals who are temporarily incapacitated can still qualify for IVA benefit if it is found during a re-assessment that they are permanently fully incapacitated.

During this phase (as also during the wage-related period), the partially incapacitated individual can make a claim under the TW if his (household) income is less than the social minimum wage applicable to him. In that case he will, as explained, have his income made up to that minimum. It should also be noted that the WGA benefit for non-working individuals is a flat rate payment, which is by definition less than 70% of the minimum wage (the relevant minimum subsistence benefit for a single person). This is because it relates to employees who are partially incapacitated, and who – depending on the level of their incapacity – will only receive a proportion of that 70%. This means that in many cases they will need to make a claim under the TW. In theory, this applies to single persons in all cases and to married persons who do not have a partner who is earning an income.

Appendix 5 Rules concerning the first two years of illness: Obligations under the Gatekeeper Improvement Act.

Week 1: After the employer has been reported ill, the employer informs as soon as possible (guideline: within one week) the Arbodienst or the company doctor.

The employer produces all the necessary data concerning the illness, in order to enable the Arbodienst or company doctor to guide the sickness process in the best possible way.

Week 6: In the case long term sickness seems to be imminent, the Arbodienst – after consulting the sick employee in question – will produce a problem analysis -including an advice about eventual future resumption of work.

The employer and employee receive this advice from the Arbodienst or company doctor.

From now on, the employer is obliged to start a re-integration file, containing all the necessary data.

Week 8: In the case the Arbodienst or company doctor has the opinion that there are possibilities to resume work, both the employer and employee start a written working plan.

This plan contains activities, terms and the date when the mandatory periodical evaluation will take place (guideline: each six weeks).

Both the employer and employee appoint a case manager whose task it is to monitor the whole process.

Week 12: In the case the employee concerned is still ill; the employer informs the implementing body (UWV).

In the case the employer is late (i.e. after six weeks from the first date of absence) the period of the continuing of wages will be extended with a period equal to the period of exceeding of the maximum date on which the employer should have informed the UWV.

The employee is entitled to a copy of the reporting ill and the eventual explanation on this.

Week 46-52: At the end of the first year of sickness, both the employer and the employee draw up a first-year evaluation report, which will be added to the re-integration file.

The first-year evaluation also contains information about the plans for the second year of illness.

Of course the employer must continue to do his utmost for the reintegration of the sick employee.

Week 87-91: In the case of continuous illness the employee receives in week 87 a WIA-application form from the UWV. The Arbodienst or company doctor takes care of an actual opinion supplementary to the former produced re-integration file. After this, the employer – on the basis of the existing reintegration file – and after consulting the employee, produces a reintegration report. The employee receives a copy of this report. During week 91 the employee applies for a benefit under the WIA. With this application also a copy of the reintegration report must be included.

Week 91-104: The UWV decides – by studying all the data – whether the employer and employee did do sufficient efforts to reintegrate the employee in question. The employer receives an invitation to undergo a WIA-investigation. After 104 weeks the employer receives the eventual WIA-benefit.

In the case the reintegration efforts were considered to be insufficient, the UWV has the possibility to impose sanctions, such as a reduction of the WIA-benefit, the employer may be forced to continue the payment of wages for a longer period.

In the case the employment of the employee ends before the expiration of the two-years make period (but at least six weeks after the first day of illness), the employer and employee must immediately produce a reintegration report. The employee hands out a copy of this report to the UWV. In the case the reintegration report is absent or in the case the UWV is of the opinion that the employer did not do his utmost to enable the employee to reintegrate, the UWV has the possibility to recover a part of the payable sickness benefit at the employer up to a maximum period of 52 weeks.

Suitable Labour during illness

The employer is obliged to look for suitable labour as soon as possible, in his own company but also at another company. In this case he may call in an external expert such as the Arbodienst or a specialized reintegration company.

The employee must accept suitable labour. In the case the employee refuses to do so, the employer has the possibility to stop the continuing payment of wages.

As an ultimate sanction the employer has the possibility to dismiss the unwilling employer.

However, in that case he needs permission from the implementing body; the employee has in that case the right of appeal at the court of justice.

Second opinion

During the period of continuance of payment of salary during illness a dispute may arise concerning the question whether the employee in question is still disabled, or about the question whether employment still is available.

Both employer and employee have the possibility to ask the UWV for a second opinion.

However, in the collective labour agreement another expert may be appointed.

Regulations and obligations for the employer

The sick employee who is entitled to the continued payment of his wage is subject to the regulations imposed by the employer.

These regulations must be reasonable and of importance to the obligation to continue wage payments.

These obligations may not be unnecessary damaging to the employee.

The employer may – for instance – settle the way how and when the employee informs the employer about his illness, when he has to be home for controls and demand a medical examination by a doctor.

However, the employer is not allowed to ask questions about the nature of his sickness or demand that the employee must stay home for the whole day.

Further the employee must cooperate in his integration and – if possible – accept suitable labour.

It is not allowed to delay or obstruct his recovery, and must - when necessary- allow treatment by a doctor or specialist.

Reaching the maximum period of two years

After the sick employee received his wage during the maximum period of two years, he is entitled to a benefit under the WIA.

He must claim his benefit at 13 weeks before the end of the qualifying period.

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