

## **The Work and Income According to Working Capacity Act will replace the Disablement Insurance Act (WAO)**

### **Introduction**

The proposed legislation from Dutch Minister of Social Affairs Mr. De Geus, discussed in the previous edition of Topics, which aimed to discourage supplementing of wages during the second year of illness to more than 70% of the last wage earned (Baltz bill: *Wet beperking aanvulling loonbetaling bij ziekte* – Restrictions on supplementary wages paid during illness Act), has been dropped.

However, the new bill is contemplated. This law will be called the Work and Income According to Working Capacity Act (*Wet werk en inkomen naar arbeidsvermogen* – WIA) and will eventually replace the Disablement Insurance Act (WAO). The basic principle of the WIA is that people who can still work, despite their occupational disability, are encouraged to work. The intended date for the Act to become effective is 1 January 2006. This proposed legislation will cause a major change in the current social security system and will affect an estimated one million people entitled to benefits. It also involves major changes for employers. The most important points for attention in the WIA are discussed below.

### **WIA**

The WIA makes a distinction between three different groups of people with occupational disabilities:

- Fully and permanently disabled people (80% or more disabled for work);
- Partially disabled people (less than 80% but more than 35% disabled for work);
- Less than 35% disabled for work.

#### **People with full and permanent disability to work**

Employees who are completely disabled for work and who have only a very small or no chance of recovery will be entitled to a standard benefit of 70% of the maximum daily wage followed by 70% of the minimum wage supplemented by an amount that increases in proportion to how long someone has worked.

#### **People with partial occupational disability**

People with partial occupational disability and people who are not permanently fully (occupationally) disabled are covered under the work resumption scheme for people partially able to work [*Regeling Werkhervatting Gedeeltelijk Arbeidsgeschikten* (WGA)]. Initially the employee with partial occupational disability receives a benefit payment based on the last wage earned. The duration for the payment of this benefit depends on the employment history. After the end of this period, there may be entitlement to a follow-up benefit. With the follow-up benefit, which makes it worthwhile for people with partial occupational disabilities to continue working.

The employers are financially encouraged to take on a person with partial occupational disability or keep them in their employment.

**Less than 35% disabled for work.**

Employees who are less than 35% disabled for work, remain employed by the employer. If the utmost is done to assist the employee to find suitable work, but employer and employee do not succeed in this, the employee will receive either unemployment benefit or social security supplementary benefit.

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