

Towards mutual responsibility: The Dutch Experience

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1 Introduction

This paper reviews the Dutch disability benefit system and some other programmes that are part of a national policy toward persons with disabilities. It starts with a short description of the sickness and disability benefit programmes. Section 3 discusses trends in disability expenditures and beneficiaries in order to illustrate what is at issue. In Section 4 I give an overview of the changes that took place in the last ten years, their efficacy, and proposals that have recently been debated. The conclusion is that Holland is moving from a wayward system to a more balanced one using elements that the OECD suggests in its new publication on disability policy.

2 The Dutch sickness and disability schemes

2.1 Sick pay

When a Dutch worker is unable to perform his or her job because of illness or injury, irrespective of its cause, he or she is entitled to sick pay. Sick pay replaces 70 percent of gross wage earnings but most collective bargaining agreements between employers and employees stipulate that sickness benefits are supplemented to the level of net earnings. Sick pay ends after 12 months.

As of 1996, the employer is fully responsible for financing sick pay. He may reinsure his sick pay liability with a private insurer but is not obliged to do so. Employers are mandated to contract with a private provider of occupational health services to manage absenteeism. Doctors employed by these occupational health agencies check whether the absence from work is legitimate and give a prognosis concerning work resumption.

Small firms may be unable to offer a commensurate job if an employee is afflicted by a disability that prevents him from doing his old job. In that case a reintegration service organisation should mediate towards placement in a new firm. As of 2003 employers are obliged to subscribe to the services of a private reintegration organisation to help disabled employees for whom no commensurate work is available within the firm.

2.2 Disability

Under the Dutch ruling any illness or injury entitles an insured person to a disability benefit after a mandatory waiting period of 12 months. While other OECD countries make a distinction by whether the impairment occurred on the job or elsewhere, only the *consequence* of impairment is relevant for the Dutch disability insurance programme.

Three separate benefit programme targeting different social groups provide compensation for loss of earning capacity due to long-term or permanent disablement. The first, and by far the biggest, programme covers employees, and awards wage-related benefits. The other two address the self-employed and those handicapped from youth. These provide flat benefits at the social minimum level. Youth handicapped are entitled to a benefit from age 18 onwards. Otherwise, the design and administration of these two programmes are the same as the wage-related programme.

The degree of disablement is assessed by consideration of the disabled worker's residual earning capacity. Capacity is defined by the earnings flowing from any job commensurate with one's residual capabilities as a percentage of earnings. The degree of disablement is the complement of the residual earning capacity and defines the benefit level. The Disability Insurance programme for employees has seven disability classes. The minimum loss of earning capacity entitling to a benefit is fifteen percent. Wage replacement rates range from 14 percent of covered earnings in the 15 to 25 percent disablement category to 70 percent in the 80 to 100 percent category.

The other two disability schemes – for self-employed and youth handicapped – have six disability categories: they skip the first category so that entitlement starts at a degree of disability of 25 percent. The wage base here is the minimum wage and so the benefit at full disablement is 70 percent of the minimum wage.¹

Partial benefits can be combined with labor earnings up to the level of the pre-disability wage. If recipients of a partial benefit are unable to find gainful employment they are entitled to a partial unemployment benefit. Combination of disability and unemployment benefits never replaces more than 70 percent of earnings lost.

Wage-related benefits are based on age and earnings. The disability benefit period is cut in two, chronologically linked parts. The first is a short-term wage-related benefit replacing 70 percent of before-tax earnings. The duration of this wage-related benefit depends on age at the onset of disablement. It varies from zero for those under age 33 to six years for those whose disability started at age 58 or beyond. Hence, workers age 58 and older keep their 70 percent replacement rate until the statutory pension age 65. For older workers the accrual of pension rights related to one's last job continues after entering the disability rolls. In addition, most pension plans do not require disability beneficiaries to pay pension premiums. Such contract rules discourage re-entry into the labour market by creating a gap in pension accrual rights, and make the disability system an alternative early retirement option.²

¹ In 2003 the minimum wage equals €16.189,63 per year.

² Dutch early retirement programs have no statutory basis; they emerged as an element of collective bargaining agreements between trade unions and employers in 1975. The tremendous growth of early retirement plans since, the expected fiscal pressure of an ageing workforce, and benefits being paid out of pay-as-you-go funds, called for changes in these actuarially unbalanced

The second part is a so-called follow-up benefit with a lower income base and, hence, a lower replacement rate with respect to the pre-disability wage. During the follow-up period, the income base for benefit calculation is the minimum wage *plus* a supplement depending on age at onset according to the formula: 2.0 percent \times [age at onset - 15] \times [wage - minimum wage]. Age serves as a proxy for work history, or "insurance years", introducing a quasi-pension element into the disability system. Most collective bargaining agreements cover the gap between the lower replacement rates in the follow-up period and the 70 percent replacement rate during the first period of disablement (including the 'sickness year'). The effective replacement rate when fully disabled, therefore, stays at 70 percent in most cases.

Disability benefits are capped by a maximum amount of covered earnings which equals about € 43,000 per annum (in 2003). This is also the maximum amount of income taxable for disability (and unemployment) insurance.

3 Trends and Issues

In May 2002 the British weekly Economist commented on the Dutch economy in an opinion article titled "Going Dutch". It wrote: "(...) it is the very need for consensus that has inhibited further reforms to the much-abused and excessively generous disability system, which pays out to a ludicrous one in seven Dutch people of working age." In the eyes of this commentator the Dutch disability experience is a clear illustration of the negative side of the much-praised culture of consensus and tolerance in Holland.

3.1 What happened really?

The data collected as part of the OECD disability policy project both confirms and refutes the stereotype of the Dutch disability system given by this quote. According to Table 2.1 of the OECD report Holland is still among the big spenders of disability benefits but it is not the biggest spending country anymore, as it was in 1990. In 1999 broad disability benefit expenditures were 4.14% of GDP, which is 28% lower than in 1991.³

Figure 1 shows the trend in the number of persons receiving a disability benefit as a percentage of the labour force (including disability beneficiaries),⁴ and disability benefit expenditures as a percentage of GDP. Disability benefits are here defined in a narrow sense, including both benefits from contributory and non-contributory

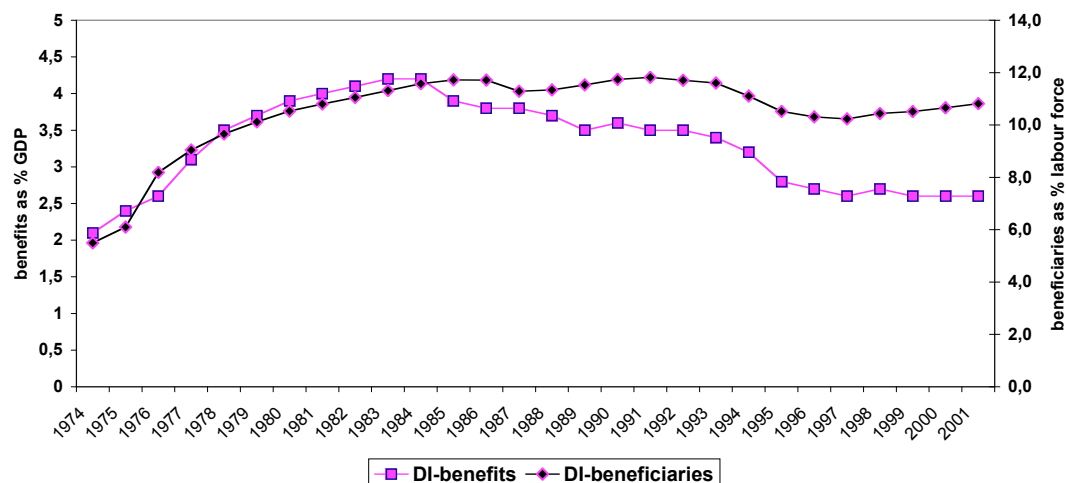
programs. An increasing number of these –collectively bargained – plans are now being transformed into capital funded flexible pension schemes with a much closer link between contributions and pension rights. These changes are likely to boost the interest in the disability benefit option.

³ 'Broad' includes disability benefits, sick pay and work injury benefits.

⁴ The labour force is measured in full time equivalents (*i.e.*, corrected for part-timers); disability beneficiaries are measured in full benefit equivalents (*i.e.*, corrected for partial benefits).

disability schemes. From a 1985 top of 4.2 percent of GDP disability benefit expenditures decreased to 2.6 percent in 2001.

Figure 1 DI-benefits as % of GDP and DI-beneficiaries as % of the labour force, 1974-2001



At the same time, however, the relative number of beneficiaries stayed at 11 percent of the labour force - the level it had reached in 1981, after the disability explosion of the 1970s. In absolute terms, the number of disability beneficiaries grew continuously from 475,000 in 1976 to 921,000 in 1993.⁵ Changes in the definition of disability and in the way benefits are calculated drastically reduced the number of new awards. Moreover, part of the current beneficiaries was reviewed using the new, more stringent definition. This increased the number of benefit terminations and, on balance, led to a 7 percent drop in the number of beneficiaries, to 855,000 in 1996. From then on the numbers started growing again, and reached 979,000 in November 2002, coming close to the politically contentious level of one million disabled.

3.2 Benefit cuts

The Figure above shows that the reduction in spending on disability benefits was not caused by a smaller number of beneficiaries. Logically, then, the average benefit must have gone down. First, over the 25 years covered by the Figure cutting statutory benefits appeared to be the only policy measure to reduce the financial burden of an otherwise uncontrollable programme. In the early 1980s benefits lost 25% of their purchasing power by a series of substantial retrenchments. First, levying social insurance contributions on benefit income changed the calculation of after tax benefit amounts. In 1982 and 1983, the after-tax DI-benefit level was reduced through the abolition of certain tax exemptions for the disabled. In 1984, the earnings base from which benefits were calculated was

⁵ In 1976 the disability scheme was broadened. From then on it also included those handicapped in youth and the self-employed. The absolute numbers quoted are not corrected for partial benefits.

reduced. Moreover, all incomes under government control - transfers, civil servant salaries, and the statutory minimum wage - suffered a 3 percent nominal cut. Finally, in 1985, (before tax) replacement rates were lowered from 80 to 70 percent of last earnings, when fully disabled. These direct cuts were accompanied by the elimination of the system of automatic indexation (adjustment) of government controlled incomes. Benefits were cut again in August 1993, when statutory replacement rates were reduced according to age at the onset of disability. As a result benefits lost another 20 percent of their real value between 1985 and 1995. This loss contrasts sharply with per capita GDP, which increased by one third during the same period.

3.3 Partial benefits

Second, after the changes of 1993 the share of partial benefits grew sharply. By these changes the notion of suitable work was eliminated from the definition of disability. Capacity is since defined by the earnings flowing from any job commensurate with one's residual capabilities as a percentage of pre-disability usual earnings. The degree of disablement is the complement of the residual earning capacity and defines the benefit level. Before 1994, only jobs that were compatible with one's training and work history could be taken into consideration in the assessment of residual capacity. This new ruling made the percentage of partials among new awards grow from 19% in 1990 to 45% in 2001.

Two thirds of partial benefit awardees work. For them, and their employers, the benefit acts as a wage subsidy. Research has shown that partial beneficiaries differ from full beneficiaries in many respects: They are older, better schooled, more often male, married and main breadwinner, have a longer tenure with their current employer and work in financially healthy companies.⁶ In short, Dutch partial beneficiaries are socially and economically better off. The data suggest that partial benefits often are used to offer older employees easier work conditions and act as a partial early retirement scheme.

3.4 The average beneficiary has changed

Over the past three decades the typical new disability beneficiary changed from an older male industry worker with a long work record in physically strenuous work into a younger female employee in the service industry with a relatively short labour market record. As 57 percent of Dutch women work part-time their wages and their D.I.-benefits are lower.⁷ An increasing proportion of women among D.I.-entrants, therefore, implies lower benefits, other things equal.

Figure 2 displays the disability beneficiary incidence rate for men and women. Women had lower rates until 1985, and have higher ones ever since. More

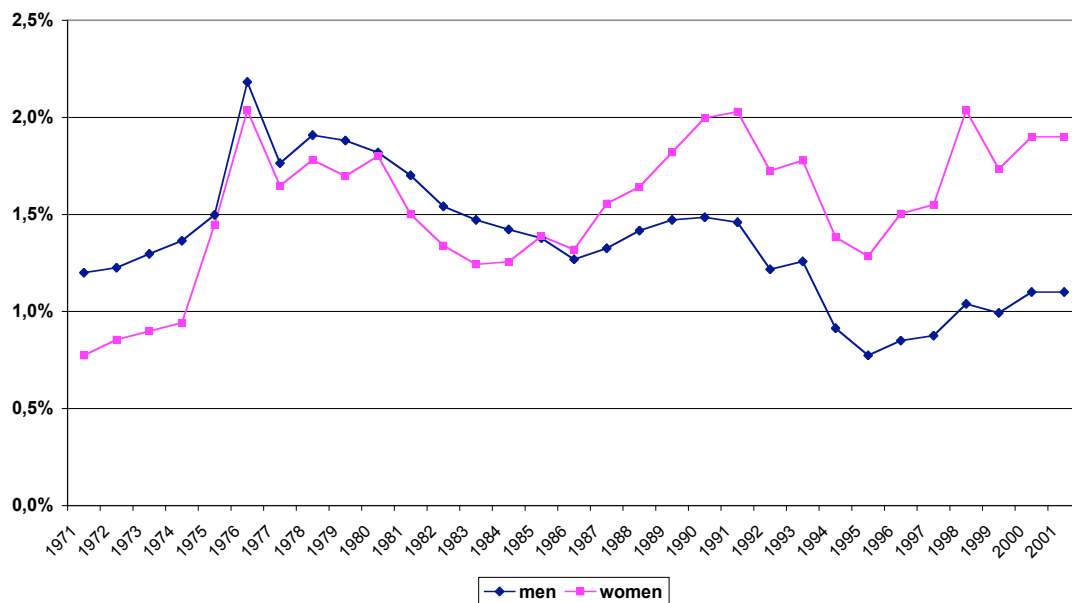
⁶ Philip de Jong and Vincent Thio, "Donner versus Veldkamp", APE report 53, October 2002 (in Dutch).

⁷ *OECD Employment Outlook*, Paris, 2002, p. 69.

importantly, the gap between the two incidence rates increased continuously from 1983, when the female rate was 15% lower than that of men, till 1998 when women had a 80% higher chance of becoming dependent on disability benefits. It stayed at that level since.

In absolute terms the total number of disability beneficiaries increased by six percent between 1991 and 2001. While the male beneficiary volume decreased by 13 percent, its female counterpart increased by 43 percent.

Figure 2 New beneficiaries as a % of the labour force by gender, 1971-2001



The sharp increase in female disability was matched by an equally strong growth of the labour force participation of mothers. Traditionally, Holland had very low labour force participation rates of married women. In the 1970s three out four women stopped working after the birth of the first child. Twenty years later only one third stops. In other words, the traditional single-earner model has been replaced by that where husbands work full-time and wives have part-time jobs. For lack of sufficient child care facilities this social change has been accommodated by the disability scheme. Disability benefits allowed to let market production be replaced by home production without a sharp drop in household income. The feminisation of disability benefit dependency illustrates how an income oriented disability policy invites to put the strains of dual earnership in medical terms.

4 New policies: privatisation and reintegration

Enhanced incentives...

In the early 1990s Dutch policymakers turned to defining the disability issue in terms of 'moral hazard'. They concluded that the system lacked appropriate incentives for the three parties directly involved: employees, employers and system administrators.

4.1 ...for employees

Employees were hit by benefit cuts in 1993, when the 'two-phases' system was introduced – a wage-replacement phase followed by a phase with a lower, age-dependent, replacement rate (see above). Although collective bargaining agreements correct the gap between the lower rate in the second phase and that in the first phase for most employees these supplements came in the place of supplements on the standard 70 percent replacement rate up to 100 percent of the net wage. All in all, the effective rate went down for most employees.

As part of the 1993 amendments the definition of disability under the Disability Insurance Act became stricter. The loss of earning capacity used to be assessed against work that was considered suitable with respect to someone's education and achieved level of functioning. If a disability would prevent employment in suitable work one was considered fully disabled. As of August 1993, the extent of disablement is assessed by considering the complete labour market, instead of the parts that are suitable. This is one of the reasons why the share of partial benefits increased sharply. Moreover, the disability status of all beneficiaries who were younger than 45 were reviewed according to the new standards. These reviews led to a surge in terminations and reductions of benefits.

The 1993 amendments also affected the incidence of new disability awards (see Figure 2). The decrease in awards may well be the combined result of increased stringency of the gatekeeper and lower application rates because disability benefits lost part of their financial appeal due to lower benefits and stricter eligibility requirements. But the benefit cuts, together with a booming economy and an increasingly tight labour market during the last six years, also changed the face of disability. Better paid workers with long careers tried to avoid becoming fully dependent on disability benefits as they had better opportunities in the labour market. Secondary breadwinners and low-wage workers would lose less when going on disability and are therefore strongly over-represented among the current disability entrants.

A smaller number of awards and a steep increase of benefit terminations resulted in a 7 percent decrease of the disability beneficiary population over the three

years between 1994-1996. So far these were the only years in which the number of beneficiaries declined since the introduction of the comprehensive disability insurance scheme in 1967.

4.2 ...and for employers

Sickness benefits were privatised

In March 1996, the Sickness Benefit Act was abolished. Under this Act sick pay was collectively financed through sector specific insurance funds. These funds were administrated by public agencies. By abolishing this Act employers became responsible for coverage of sick pay during the first 12 months of sickness, after which Disability Insurance takes over. Under the Civil Code, firms are obliged to continue payment of 70 percent of earnings during sickness. They may choose freely whether they want to bear their sick pay risk themselves or have (part of) it covered by a private insurer.

This is a remarkable change. A fully regulated monopoly market to which private insurers had no access has been transformed into a deregulated one on which private insurers freely bid for contracts with firms that seek to insure their sick pay liabilities. Firms are legally mandated to contract with a private occupational health agency and buy a package of services including prevention of, and monitoring sick spells. These new mandates seek to reduce absenteeism and inflow into the disability benefit programme by confronting firms with its full cost. Investment in prevention and reduction of sickness is profitable as it reduces avoidable costs of absenteeism.

Sickness absence rates dropped from 8 percent in 1990 to 6 percent in 2000 – a 25 percent drop.⁸ Both these years represent a cyclical top and comparison between these, therefore, controls for the influence of the business cycle on absenteeism. This large drop, then, can be ascribed to privatisation, and its associated incentives. This favourable result is obtained despite the fact that about 80 percent of all firms took out some form of private insurance to cover their sickness liabilities.

There appears to be a strong negative relationship between firm size and insurance coverage: while firms with less than 20 employees have a coverage rate of about 83%, only 25 percent of those with 100 or more workers buy insurance. Larger firms also choose a larger coinsurance period or buy a stop-loss arrangement.⁹ Insurance companies. To avoid adverse selection insurance companies stipulate that no employee be excluded from coverage under a sick pay policy which the employer buys. Insurers also demand that firms contract

⁸ T.J. Veerman en J.J.M. Besseling, *Prikkels en privatisering*, The Hague: EBI, 2001, p.60.

⁹ T.J. Veerman, E.I.L.M Schellekens, J.F.L.M.M. Dagevos, J.A. Duvekot, F. Marcelissen. P.G.M. Molenaar-Cox, *Werkgevers over ziekteverzuim, Arbo en reïntegratie*, The Hague, EBI, 2001, pp.22-27.

occupational health agencies, and stipulate which set of services is to be contracted.

A parliamentary majority expected that privatisation of sickness benefits would make the labour market less accessible for people with disabilities because employers would check the health status of job applicants more strictly. To counter that problem an Act banning medical examinations as part of an application procedure was introduced. Survey data show that selection on health risks has not increased due to privatisation: in 1999 about one third of firms report that they scrutinise applicants sharply on health. The same share did so in around 1990. To what extent this result is due to the Act on medical examinations is unclear.¹⁰

Surprisingly enough privatisation did not induce a surge in conflicts between sick workers and employers refusing to continue payment of their wages. This may also be the result of the fact that the privatisation was enacted in a boom period. The current recession may be used to test to what extent private financing of sickness benefits is weatherproof.

Disability contribution rates are experience rated

Since 1998 experience rating of firms is gradually phased into the disability insurance scheme. Pre-1998 benefits are still funded by the existing uniform pay-as-you-go contribution rates but as of 1998 the first five years of disability benefit reciprocity of new beneficiaries is paid out of premiums that are levied according to the "polluter pays principle." If an employee is awarded a disability benefit, the firm will face a higher contribution rate, and vice versa if a firm employs a disability beneficiary. Moreover, firms are allowed to opt out of the public insurance system, but only with respect to the coverage of the first five years of benefit reciprocity.

The disability insurance scheme for employees is now financed by levying two separate premium rates, both paid by the employer. The first is a uniform pay-as-you-go rate covering the benefits of those that were already on the rolls before 1998. Five years after its start –*i.e.*, from 2003 – the pay-as-you-go rate also covers benefits that started after 1997 and last more than five years. Over the past five years this rate has gone down from 7.55% to 5.05% of taxable wage (up to €43,000 per year).

The second rate covers the first five years of benefit reciprocity and is differentiated according to the firm specific disability risk. To calculate the risk in year t the total expenditures on disability benefits of the firm's disabled employees in year $t-2$ is taken and expressed as a percentage of the average wage-bill over the past five year period. This firm specific risk determines the differentiated rate. The average risk rate has increased from 0.30% in 1998 to

¹⁰ E.L. de Vos et al., 2001

2.38% in 2003. As of 2003 only firms with a wage-bill of more than €600,000 pay differentiated rates. These rates are limited by a lower and an upper bound. The upper bound increased from 1.12% in 1998 to 8.52% in 2003.

Five years after the inception of experience rating the system can be considered mature. The uniform pay-as-you-go rate is expected to stay at about the current level of 5 percent of taxable wages. What the average risk rate will do strongly depends on the inflow rates develop.

At the end of 2001 only 0.9% of Dutch firms had opted out of this public financing scheme and had chosen to self-insure the risk of paying the first five years of disability benefit payment (first six years if one includes the sickness benefit year). These firms account for 5.6% of total wages because, naturally, 'large' employers (with a wage-bill larger than €600,000) are overrepresented among the self-insured. In the public pay-as-you-go division of disability insurance only 12 percent are large firms. Among the self-insured 25 percent are large.

Whether experience rating has reduced the inflow rates is yet unknown. The phase-in stage of differentiated premiums has just ended, and the period since those rates are 'biting' is still short.

4.3but not for the gatekeepers of the programme

In the debate on disability policy the focus gradually shifted from the programme itself toward the programme administrators. In 1993, a multi-party parliamentary committee investigated the operations of the then-existing Insurance Agencies which were organised by sector of industry and held a legally protected monopoly with regard to the administration of sickness, disability and unemployment insurance benefits. The committee devoted special attention to the administration of the disability insurance scheme. The committee publicly interrogated a vast number of current and former administrators, civil servants, and politicians. The picture that emerged from the nightly televised summaries was devastating for the image of the Insurance Agencies. What most suspected, and what had already been shown by research, was now publicly confirmed. The committee's report created broad political support for drastic changes regarding, in particular, the dominant, and autonomous, position of the trade unions and employers' representatives in the management of social insurance.

In 1995, as a result of the committee's recommendations, an independent supervisory body was set up. It publishes annual reports on the efficiency and legality of the administration of the social insurance programs. In 1997, the public Insurance Agencies that were run by the social partners were privatised, and regrouped themselves into five organisations. Next to their traditional tasks in administering public (unemployment and disability) insurance programs, they

set up a range of private activities, offering medical and vocational rehabilitation, and occupational health and employment services.

The original plan was to create a competitive market on which these five agencies, as well as new entrants to this market, would compete for contracts with companies or groups of companies to administer wage-replacing unemployment and disability insurance. The trend was towards offering 'full-service packages' that would cover the legally mandated social insurance liabilities as well as pensions, health insurance and outplacement of redundant employees.

The public debate on this model of private delivery of social insurance disclosed several problems. A competitive insurance market for mandatory coverage of disability risks could be viable, and efficient, if private insurers would be allowed to control all the links in the "insurance chain": running from drafting policies, calculating premiums, administering indemnities, controlling damages and managing claims. Insurers could offer firms tailor made packages by varying elements such as the extent of co-insurance and the intensity of damage control through prevention, swift rehabilitation and monitoring activities. One crucial element in this chain is the assessment of the degree of disablement. A political majority was unwilling to subject disability assessment to the business interest of private insurers. As a consequence, a hybrid model was proposed in which the whole chain was privatised except disability assessment, which was to be done by a separate public (medical) agency.

Second, while disability is a privately insurable risk, unemployment is not. Privatisation of unemployment insurance would not obtain a (socially) efficient market. Apart from the insurmountable problem of risk dependency, employers would only be interested in the cheapest unemployment insurance administration contract because they would not profit from investment in quick re-employment of workers after they became redundant. Putting disability and unemployment risks in one basket, therefore, would result in a (socially) sub-optimal outcome.

Third, private agencies that cover the mandatory (public) insurances are likely to offer additional, related, insurance services, such as health insurance, pensions. To the extent that the portability of such employee benefit packages is limited, employees are locked in to the firm. Likewise, firms may find it difficult to change providers of employee benefits.

And, finally, private agencies that get data on covered workers because they run public schemes may abuse those for other commercial activities. Similarly, they may use moneys from mandatory, public, insurances for their private business. Auditing such hybrid organisations is complex, controversial, and expensive.

For these, and other, reasons a political majority pulled the plug on this privatisation plan in the summer of 1999. In 2002 the Social Insurance Institute

was established to run the disability and unemployment insurance schemes as a so-called quango (quasi-autonomous non-governmental organisation) under contract with the Ministry of Social Affairs and Employment. Only rehabilitation (reintegration into paid work) is contracted out to private firms. This could offer an opportunity for the existing occupational health service companies that now do the management of sickness benefit claims to broaden their scope.

4.4 Reintegration

REA-provisions

In contrast to countries with a similarly broad social welfare system the Dutch disability programme used to lack effective mandates regarding vocational rehabilitation and a rehabilitation infrastructure to support such mandates. This was increasingly felt as system failure. In July 1998 the Act on Reintegration of Work Handicapped Persons (REA) introduced a new target group. Under this Act the set of provisions in kind and subsidies that previously were scattered over a number of schemes were added together and made consistent.

Work handicapped persons are all those:

- that have a disability that reduces their productive capacity, and
- are entitled to a disability benefit, or those that have lost their entitlement less than five years ago;
- are entitled to an in kind provision or subsidy to maintain or restore one's productivity, or those that have lost their entitlement to such provision less than five years ago;
- belong to the group targeted by the Sheltered Work Provision Act;
- do not belong to any of the before-mentioned groups but have been assessed (through medical examination at a social insurance agency) as being work handicapped.

The status of work handicapped is allowed for five years after which it has to be re-established. REA excludes all those work handicapped persons that have an employment contract, unless they have reached the 12 months sickness limit, with or without a disability insurance award, and those that have not reached this limit but are unable to resume with their current employer.

In 2000 about 1.2 million persons (12 percent of the working age (18-64) population) were counted as work handicapped. Of those 79 percent are benefit recipients; 34 percent of the work handicapped population are employed. Work handicapped are older than the average employee: 61 percent are older than 45 against 28 percent of all employees.

As of 2002 REA covers the following types of provisions:

1. Work handicapped employees may be entitled to schooling, training, mobility provisions, trial placement and personal assistance and certain therapies (like stress and RSI training) to maintain or restore their productivity
2. Companies pay a lower disability insurance rate and are exempt from experience rating for handicapped workers. The sickness benefits of handicapped workers are covered collectively so that their employers do not bear the financial risk of continued wage payment if they would turn sick.
3. Companies are entitled to subsidies that cover the cost of accommodation of the work place.

In 2001 57,000 REA-provisions were awarded to employees, and about 50,000 to employers. As employees, or their employers, often get more than one provision the number of employees that get a provision is much less than the total number of provisions given in 2001 (107,000). But even if this sum would be the number of workers getting a REA-provision it is small compared with a target group of 800,000 non-working handicapped.

Moreover, survey data on cohorts of those that reached the disability insurance waiting period of twelve months sickness in 2001 show that the instruments are used selectively in a sense that suggests a certain extent of dead-weight loss: REA helps those that are in a relatively favourable position more often than others. The group that gets a relatively large amount of support from REA is very similar to those that get partial disability benefits: they are better schooled, they have longer tenure, they are more often breadwinners, and work large, financially healthy, firms.¹¹ The report on this survey concludes that the introduction of REA has not (yet?) led to a significant improvement of the reintegration process.

Reintegration plans

This conclusion is based on a study of workers who are on long-term sickness but still have an employment contract with their current employer. In that case, the employer and his occupational health agency do the application for a REA provision. Concerning disability beneficiaries REA provisions are usually part of a reintegration (back-to-work) plan drafted by vocational experts of the Social Insurance Institute. These plans may be compared with the 'individual participation packages' proposed by the OECD. On the one hand beneficiaries can influence the design of the plan by stating their preferences for certain REA provisions and lines of work. On the other hand, beneficiaries are legally mandated to take all steps necessary to restore their productive capacities. Therefore, those that are offered a plan cannot refuse to co-operate, unless they can prove that they already are on the road back to work.

The Social Insurance Institute contracts with private reintegration service organisations to execute reintegration plans. This is done by parcelling out groups (plots) of beneficiaries to organisations with the best offer in terms of price,

¹¹ G.J.M. Jehoel-Gijsbers and C.G.L. van Deursen, *Reintegratie bij arbeidsongeschiktheid*, Amsterdam: UWV (Social Insurance Institute), 2003.

successful placement record and professionalism. These plans are financed out of the REA-budget, and cover both the reintegration instruments and the effort of the reintegration service. In 2001 about 50'000 reintegration plans were contracted for the work handicapped. About half of these concern disability beneficiaries; the others are unemployed disabled (with or without an unemployment transfer income). In other words, plans were made for about 2.5 percent of the disability beneficiary population. According to contract 35 percent (17,500 of 50,000 plans) should result in successful placements (employment for at least six months).

Reintegration reports

As of April 2002, the responsibilities of the sick employee, his/her employer, and the occupational health service are legally specified, and mandate a structured approach to early intervention in cases of sickness. After a maximum of six weeks of absence the occupational (health service) doctor has to make a first assessment of medical cause, functional limitations and give a prognosis regarding work resumption. On the basis of these data employer and employee together draft a vocational rehabilitation plan in which they specify an aim (resumption of current/other job under current/accommodated conditions) and the steps needed to reach that aim. They appoint a case-manager, and fix dates at which the plan should be evaluated, and modified if necessary. The rehabilitation plan should be ready in the eighth week of sickness. It is binding for both parties, and one party may summon the other when considered negligent.

After 35 weeks of sickness the Social Insurance Institute sends a Disability Insurance application form to the sick employee. Disability Insurance claims have to be delivered before the 40th week of sickness. Claims are only considered admissible if they are accompanied by a rehabilitation report, containing the original rehabilitation plan, and an assessment as to why the plan has not (yet) resulted in work resumption. If the report is delayed, incomplete, or proves that the reintegration efforts were insufficient the claim is not processed and the employer is obliged to continue paying sickness benefits even after twelve months.

This is a serious step in the direction of mutuality of rights and responsibilities both in the relationship between employer and employee, and of both parties in their relationship with the state, represented by the Social Insurance Institute. Employees who consistently refuse to co-operate with their employer to execute the plan can be dismissed. To that end the labour law has been changed, because until now an absolute dismissal ban was in force for the first two years following the onset of a disability.¹² Employers can be sanctioned by a one-year extension

¹² A comparison among 10 European welfare states, the United States and Japan, shows that the Dutch system of job protection during sickness (still) is much stronger than in any of the twelve countries (H. Bakkum and S. Desczka, *De Nederlandse WAO in internationaal perspectief*, The Hague, Ministry of Social Affairs and Employment, Werkdocument no. 241, 2002, pp.15-16.

of the payment period of sickness benefits if proven at fault. And employees may be penalised by cutting their disability insurance benefit.

4.5 The Donner report

In May 2001 a National Advisory Commission on Disability proposed to drastically revise the current scheme. After its chairman it is called the Donner Commission. The proposal takes the mutual responsibility of employer and employee to promote work resumption and prevent benefit dependency as a starting point. The employer is obliged to take care of the necessary accommodation of the current job, or to offer another job, inside or outside his firm. The employee has to provide the medical information necessary to adapt employment conditions, and has to accept any job offer earning at least 70 percent of his previous wage.

The sufficiency of the return to work efforts of employer and employee are to be judged by the Social Insurance Institute. Insufficiency will be sanctioned. If the employer is held liable he will have to continue payment of sickness benefit, until he has taken the steps judged necessary by the Institute. If the employee proves unwilling to collaborate with reasonable plans and job offers the employer may dismiss him/her. The latter rules have already been effected by the introduction of the reintegration report in April 2002, except that the Donner committee proposed to make the waiting period before a benefit claim can be filed would become flexible with a minimum period of three months.

This system of mutual obligations to promote swift work resumption is underscored by a new risk definition under Disability Insurance. People are only awarded a disability benefit if they can be considered permanently and severely disabled. Partial disability is not covered anymore by the public Disability Insurance programme. Expectations are that this alone will reduce the inflow rate by two thirds. Only if the inflow rate declines significantly the benefit under this new system can go back to its pre-1993 level of 70% of earnings.

Disabled workers who, under this strict regime, are not eligible for disability benefit and who, despite reasonable efforts of their employer and themselves, are unable to find commensurate work can claim unemployment benefit.

One of the main goals of this blueprint is to emphasise that sick workers should do everything reasonable to go back to work as soon as possible. To that end they can appeal on broad support from their employers. Employers who remain negligent have to continue paying sickness benefit for an unlimited duration. This sanction should replace experience rating of the firm specific disability risk. Those that are eligible for disability benefit are presumably left without any residual earning work capacity, and are therefore not subject to rehabilitation mandates.

4.6 The SER proposals

The Donner proposals met with fierce opposition. Although the central recommendation to restrict the Disability Insurance programme to the permanently and fully disabled and to privatise partial disability was broadly accepted, the fact that many of those who are now entitled to disability benefit may become unemployed and end on social assistance was equally broadly considered unacceptable. Others noted that by doing away with experience rating, together with the possibility of eventually higher replacement rates, would bring the system back to its pre-1993 state and would reinstate all the wrong incentives the system got rid of over the past years. A third form of criticism concerned the concept, definition and implementation of full and permanent disablement. The gatekeepers of the programme would never be able to apply such a strict standard, especially under the pressure of disabled workers claiming a benefit, which would soon turn to be higher than any other transfer income.

The Donner proposals were sent to the Social-Economic Council (SER) – the advisory body Government has to consult in matters of social and labour market policy. This Council consists of trade unions' and employers' representatives and independent Crown Members. These three parties have equal shares in the Council.

The SER accepted major parts of the Donner report but modified two crucial elements:

1. Benefits were to compensate 75 percent of lost earnings. The trade unions demanded this as a *quid-pro-quo* for the employers' bonus: elimination of experience rating.
2. Partial disability would be eliminated from Disability Insurance but a new system was proposed in which two classes of partial disability would remain: those who are not fully disabled but suffer a loss of capacity of more than 35% and those that have a limitation which reduces capacity by less than 35%.

The first group would get a supplement on their wage if they were employed. Firms would be legally obliged to take out private insurance to cover these supplements. In case of unemployment they would be entitled to a benefit which eventually would go down to the level of the social minimum but which would remain (until age 65) an insurance entitlement without means tests. The second group (with a capacity loss of less than 35%) would be entitled to support from their employer to stay in employment. In case of unemployment they would be treated as regular unemployed who eventually end on means tested welfare.

Government considered this mollification of the Donner proposals as undue. It argued that the mandatory private insurance system for those in the 35-100 disability class would work adversely. At least two of the three parties involved in this game (employers and private insurers) were expected to prefer

unemployment over claiming a wage supplement – damages which could be avoided by making the employee redundant. But compared to a partial disability benefit under the current system the unemployment option was in many cases an improvement, too.

4.7 Government proposals

Government takes a stand close to the Donner proposals. Four new amendments are currently being prepared:

1. A Bill is drafted in which the mandatory waiting period is extended from one to two years. This extends the sickness benefit payment period for employers but reduces the burden of experience rating correspondingly.
2. The definition and operationalisation of the disability criterion proposed by Donner is under serious study both by physicians and lawyers.
3. An element, which is neither part of the Donner nor the SER proposals, is the introduction of an employment record requirement before one is covered by Disability Insurance. The current coalition is in favour of the introduction of such an additional requirement.¹³
4. If one were to choose a Donner type criterion ILO treaty 121 ratified by the Dutch government requires that those that would get partially disabled due to a work-related accident or occupational disease are covered by social insurance. Government has drafted a Bill to cover work-related risks by mandating employers to contract private insurers. The need to do so would only be enhanced by the introduction of a contribution record requirement.

All in all, 'Donner' would bring the Dutch disability benefit system in many respects back into the international mainstream. But in other respects it remains unique: it keeps its heavy employer mandates and reinforces elements of mutuality.

¹³ An element, which makes the Dutch disability programme more accessible than those elsewhere, is the absence of a required contribution period before a worker is fully covered. Such absence is natural under a Work Injury scheme, because a construction worker, who falls from a scaffold on the first day on the job, has to be covered. But general disability benefit programmes in other countries all require a certain contribution payment period, which may run up to 5 years, before full coverage is obtained. See Bakkum and Desczka, 2002, *op.cit.*, pp. 33-36.