

*SER advisory report on the Cabinet's disability insurance policy*

As agreed during the Autumn 2003 consultations between the Cabinet and the national confederations of trade unions and employers' associations, on 19 November 2003 the Minister of Social Affairs and Employment requested the advice of the Social and Economic Council on three topics related to disability insurance:

- the criterion on incapacity of work, used to determine whether an employee is wholly and permanently disabled or partly disabled;
- the status of employees on flexible employment contracts and military personnel under disability insurance schemes;
- the design and introduction of statutory measures related to occupational risk, the Extra Occupational Risk Guarantee Scheme (*Extra Garantieregeling Beroepsrisico's*).

As a frame of reference for its assessment, the Council has compared the Cabinet's proposals to its own advisory report on occupational invalidity insurance, which it issued in 2002 (see the separate summary of this report on the Council's website) and on the agreements reached between the Cabinet and the Labour Foundation in Autumn 2003.

In its advisory report of 20 February 2004, the Council notes that, generally speaking, the proposals which it put forward in its 2002 advisory report will bring the disability insurance problem under control, in the administrative sense, and will lead to a system of sick leave and disability insurance schemes that is financially sound, both now and in the future, and encourages benefits recipients to work while offering them social solidarity. The Cabinet should therefore bring its plans into line with the Council's 2002 proposals.

During its consultations with the Labour Foundation in the Autumn of 2003, the Cabinet announced that it would follow the Council's proposal to introduce an incapacity for work criterion once it was satisfied that such a criterion was in fact a workable method and that the annual number of new benefits recipients under the new scheme for wholly and permanently disabled employees would be reduced to 25,000.

In its new advisory report, the Council has therefore looked in greater detail at how to apply the eligibility criterion. For example, at the end of an employee's second year of illness, it should be clear whether everything has been done to achieve the employee's full recovery or rehabilitation and whether all the various reintegration possibilities have been explored. A satisfactory prognosis (based on checklists for specific illnesses and disorders) by the examining medical officer should clarify whether the employee's occupational limitations are long-lasting or whether medical recovery is still possible, in turn making the employee's full or partial reintegration into the workforce possible in the long run.

Based on estimates by the Social Security Agency (UWV), drawn up in consultation with the Netherlands Bureau for Economic Policy Analysis (CPB) and the Ministry of Social Affairs and Employment, the Council believes that its proposals could reduce the annual number of new benefits recipients under the new Disability Insurance Act to less than 25,000 by the year 2006.

The Council therefore concludes that the incapacity for work criterion which it has proposed can and should be taken as the Cabinet's starting point for policy.

The Council believes that its proposals should also apply to special categories of employees, for example those who work on flexible employment contracts. It advises introducing a number of more specific measures so as to reduce the cost of sickness absenteeism in the temporary staffing sector. In the case of workers whose temping contract ends automatically if they become ill, the Council proposes reducing the amount of time that their agency is required to pay their salaries from two years to one. It also recommends placing a ceiling on the differentiated contribution paid by individual temporary staffing agencies under the Disability Insurance Act so that it does not exceed the national average contribution percentage, a measure that the Council proposes introducing retroactively as from 1 January 2004. Finally, the Council advises introducing a "safety net" wage supplement administered by a public body.

The Council does not see any reason to propose specific measures for military personnel or to amend the schemes applying to them at the present time.

Unlike the Cabinet, the Council does not believe that international treaties compel the introduction of an Extra Occupational Risk Guarantee Scheme. The Council has, however, noted that an occupational risk benefit scheme may be desirable in the future, given that employers are increasingly being held liable in connection with occupational risk and that the number of claims for damages filed against employers may be set to increase. The Council will keep a close watch on developments in this regard and welcomes the Cabinet's input and analyses. The Council further undertakes to reconsider the need for an occupational risk scheme, for example during its review of the future of the Netherlands' social insurance system.