ICT Enabled Distribution of Services: Service Positioning Strategies, Front Office Information and Multi-channeling

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Appendix B
An Overview of Social Security Legislation and Organization in the Netherlands

In this appendix I give a brief overview of changes in the social security legislation in the Netherlands and the developments in the organizational structure of social security. Changes in legislation and organizational structure are described for the period 1992-2002, starting with the period of the Parliamentary inquiry of the Commission Buurmeyer and finishing with the most recent large change in organizational structure, the enforcement of the SUWI act at the first of January 2002. By taking the period 1992-2002, I describe the social security legislation that was effective during the period of study (1998-2001) and that had its effects on social security administration agencies like Gak Nederland. This legislation was the context in which Interpolis marketed its employment benefits services, was the context of the re-integration business in which Interpolis and Unique partly operated and was the context in which many of the professionals educated by Sioo operated and in which Sioo designed its programs to educate them. Changes made in the period between 1992 and 2002 should be seen in the light of the recommendations of the Commission Buurmeyer stemming from the parliamentary inquiry finished in 1993. The report issued by the committee of inquiry identified four criteria for a modern and sustainable social security system: activation (prevention and re-integration), regional implementation, minimal influence of employers and employees into individual cases and independent inspections.

Changes in social security and the organizational structure of social security are enforced through various acts between 1992 and 2002. I categorize the acts into four groups and will treat the acts in the sequence of the four groups.

- Acts primary dealing with unemployment.
- Acts primary dealing with sickness benefits.
- Legislation primary dealing with occupational disability.
- Legislation covering the organizational structure of the social security system in the Netherlands.

Volksverzekeringen (national insurance schemes) and other social benefits (such as Algemene Bijstands Wet (ABW - National Social Security Assistance Act)) are not considered.
Unemployment Legislation

In the Netherlands the Werkloosheids Wet (WW - Unemployment Insurance Act) provides for unemployment benefits. The act has been in force since 1952.

Werkloosheids Wet (WW - Unemployment Insurance Act)

To qualify for state unemployment benefit a person must have worked a statutory number of 26 weeks and must have been employed for four out of five years. As unemployed are classed all those who have lost at least five working hours, are no longer entitled to a wage for those lost working hours and are additionally available for work for those hours. The amount of benefit an employee is entitled to, is dependent on a number of factors, including cause of unemployment, years of service and wage. A person cannot be classed as unemployed if he is on sick leave, on holiday leave, is being detained, is entitled to full WAO benefit, is posted abroad or if he has reached the maximum duration of the benefit (Minszw, Lisd and VSV).

The benefit amounts to 70% of the last earned wage. After the expiry of the wage-related benefit, the benefits claimant qualifies for a follow-up benefit. This lasts for two years and amounts to 70% of the minimum wage. After someone has reached the maximum duration period of WW benefits, the person is entitled to apply for the Algemene Bijstandswe t (ABW - National Social Security Assistance Act). The ABW provides a basic income to all residents of the Netherlands (Minszw, Lisd and VSV).

Persons in receipt of WW benefit must do everything in their power to find employment. This means that the benefits claimants must (Minszw, Lisd and VSV):

- Accept suitable employment.
- Apply for work on a regular basis.
- Make no demands that make it harder to find work.

Anyone who is ill or partially incapacitated for work and partially unemployed is entitled to both WW benefit and WAO benefit in proportion to the level of unemployment and/or occupational disability (Minszw, Lisd and VSV).

Sickness benefits legislation

In the period between 1992 and 2002 the most important changes made concerning sickness benefits are made in the Ziekte Wet (ZW – Sickness Benefits Act) through the introduction of the Wet uitbreiding loondoorbetalings door werkgever bij ziekte (Wulbz – Continued Payment of Wages and Saleries (sickness) Act). The Sickness Benefits Act came into force in 1930, and was aimed at protecting employees against loss of earnings in the event of illness. Since its introduction, the act has undergone drastic changes. With the introduction in 1996 of the Wulbz sickness benefits are largely privatized.

Wet uitbreiding loondoorbetalings door werkgever bij ziekte (Wulbz – Continued Payment of Wages and Saleries (sickness) Act) (1996)

The most important implication of this act is that the employer, in the event of illness, is obliged to pay at least 70% of the ill employee’s wage for 52 weeks. The employer is responsible for carrying out inspections and absenteeism supervision,
and for re-integration, i.e. ensuring that the employee returns to work as quickly as possible. The ill employee is required to carry out suitable work if he is able to do so. If the employee refuses to accept suitable work, the employer is entitled to discontinue payment of wages, and the employee may even be obliged to accept work from a different employer (following the approval from the social security administration agency). In the event of a dispute (the employer considers the employee to be fit to return to work; the employee disagrees), the employer is entitled to suspend his obligation to continue payment of wages. The employee can request a second opinion from the social security administration agency, which will determine whether or not the employee is ill. It is also possible to request a second opinion to assess whether the type of work that the employer wishes the employee to carry out is suitable or not (Lisv, Minszw, VSV).

Ziektewet (ZW - Sickness Benefits Act)
Following the introduction of Wulbz, employees are still insured under the Ziektewet, but the act only allocates benefits in a limited number of cases. Employees who due to illness or following an accident are incapable of carrying out their own work and who are not eligible for continued payment of their wages, are entitled to sick pay. Employees also qualify for sick pay in the event of pregnancy, compulsory liquidation of the company, organ donations, if they are returning to work as an occupationally disabled employee (for the first five years of employment) or if the employment contract is terminated while the employee is still on sick leave. The employee qualifies for sick pay equal to 70% of the so-called daily wage. Sick pay is paid out for a maximum of 52 weeks. (Ctsv, Minszw).

Occupational Benefits Legislation
The Wet Arbeidsongeschiktheid (WAO- Occupational Disability Insurance Act) is the basic legislation covering occupational benefits in the Netherlands. In 1901 the Ongevallenwet (Accident Act) came into force, followed in 1919 by the Disability Act (Invaliditeitswet) and in 1922 by the Land-en Tuinbouwongevallenwet (Agricultural and Horticultural Accident Act). These acts were replaced in 1967 by the WAO. An additional act, the Algemene Arbeidsongeschiktheidswet (AAW - General Invalidity Benefits Act) was introduced in 1976.
In 1992 and 1993 important changes were made to the WAO by the Wet Terugdringing ArbeidsongeschiktheidsVolume (1992) and Wet Terugdringing Beroep op de Arbeidsongeschiktheidsregeling (1993). These changes were meant to reduce the amount of new people claiming an occupational disability benefit (the so called WAO influx) and to increase the amount of occupational benefit claimants having a full or part time job (the so called re-integration of (former) WAO claimants into the labor market). To further reduce the WAO influx the Wet Premiedifferentiatie En Marktwerving Bij Arbeidsongeschiktheid (PEMBA - Premium differentiation and market working for occupational disability) was introduced in 1998. Furthermore, the Wet op de REintegratie Arbeidsgehandicapten
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(REA - Disability Re-integration Act) and the Arbeidsomstandighedenwet (Arbowet – Working Conditions Legislation) were changed in 1998. The REA act was meant to increase re-integration of (former) WAO claimants into the labor market. The Arbo act was meant to prevent illness and occupational disability.

After the introduction of these acts the WAO influx remained high. Therefore the second Kok Cabinet introduced a WAO Plan of Action in 1999 (Minszw, Lisp and VSV), which will be discussed in this section. After this Plan of Action WAO influx still remained high and the second Kok Cabinet prepared new legislation on the social security organization, the SUWI act, to get a better grip on the implementation of acts. The SUWI act came into force on 1 January 2002 and will be discussed in the section of this appendix treating legislation covering social security organization. In 2002 the Dutch government prepared further arrangements to decrease WAO influx together with employer and employee organizations in the Commission Donner. The recommendations of the commission Donner and WAO related regulations taken after the Commission Donner fall beyond the context in which the case studies has been done and will not be described in this appendix. In this section I treat the above-mentioned WAO related legislation, which became into force during the period 1992-2002 chronologically.


The TAV act was introduced in 1992, and incorporates numerous measures aimed at stimulating employees and employers alike to reduce the volume of absenteeism due to illness and occupational disability. The main points of the act are as follows.

- Bonus/penalty scheme. Employers who take on an occupationally disabled person for at least one year qualify for a bonus from the Algemeen Arbeidsongeschiktheidsfonds (General Occupational Disability Fund). Employers have to pay a financial contribution (penalty) if one of his employees becomes (more) occupationally disabled.
- Wage costs and supervision subsidy; employers who take on occupationally disabled employees are eligible for subsidy.
- Employer's obligation to register the number of occupationally disabled people in their company and early notification of all cases of illness (Minszw).

Wet Terugdringing Beroep op de Arbeidsongeschiktheidsregeling (TBA – Act on Reduction in Recourse to Disability Benefits) (1993)

TBA came into force on 1 August 1993. The most important elements of the act are as follows.

- Change in occupational disability criteria; when determining the level of occupational disability and the amount of benefit, the emphasis is now on what type of work a person is able to carry out.
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- Adjusting benefit to age; people qualifying for benefit under the WAO after 24 January 1994 are entitled to WAO benefit for a maximum of 6 years depending on the age at which they first became entitled to the benefit, equal to 70% of their last-earned wage. After 6 years, they are entitled to follow-up benefit, which is also dependent on the age at which the person became occupationally disabled.
- Temporary nature of the benefit and regular assessment of the right to WAO.
- Reassessment of the WAO claim within 1 year after the start of the WAO benefit (Minszw).

Wet Arbeidsongeschiktheid (WAO- Occupational Disability Insurance Act) after TAV and TBA

The WAO covers employees who are still at least 15% occupationally disabled following a period of 52 weeks illness under the Sickness benefits Act. The employee is required to apply for WAO benefit if he has been occupationally disabled for eight months. The application must be made no later than nine months after the start of occupational disability. The UVI must in principle inform the employee within 13 weeks whether he qualifies for WAO benefit. Employees remain entitled to WAO benefit as long as they are occupationally disabled. The WAO benefit is awarded for five years, after which the UVI will reassess whether the employee is still incapacitated and if so, to what extent. WAO benefit is discontinued if the employee fails to reapply, if he is incapacitated for less than 15%, in the event of death, and as from his 65th birthday (Minszw).

It should be noted that being occupationally disabled under the WAO is not the same as being incapacitated under the Sickness benefits Act. The WAO states that a person is occupationally disabled if he is partially or completely unable to carry out work in general. Under the Sickness benefits Act, a person is occupationally disabled if he is unable to carry out his own job due to illness or as a result of an accident (Minszw).

Since the TBA, the social security administration agencies (UVI) determine the degree of occupational disability on the basis of the employee's earning capacity when carrying out work of a generally acceptable nature, i.e. generally accepted work that he is still able to carry out in view of medical restrictions. The amount of WAO benefit a person is entitled to depend on the degree of occupational disability and wage, and the age at which he started receiving benefit under the WAO. The WAO is divided into two separate benefits.

- Compensation for loss of earnings; this compensation is a proportion of the daily wage, depending on the degree of occupational disability. After the expiry of this benefit, the employee – if still occupationally disabled – will receive a follow-up benefit.
- Follow-up benefit; this is a proportion of the follow-up daily wage. Provided that he keeps re-applying, the employee is entitled to follow-up benefit up until his 65th birthday (Minszw).
The difference between the compensation for loss of earnings and the follow-up benefit is known as the *WAO shortfall*. In view of the fact that the way in which WAO is calculated has changed since 1994, the WAO benefit is age-related (the younger the employee, the less WAO benefit he is entitled to) and wage-related (the higher the salary, the greater the drop in income). For many employees, the WAO shortfall is topped up through for instance a pension fund or private insurance. In most cases, the employer contributes towards topping up the shortfall (Minszw, Lisv and VSV).

**Wet Premiedifferentiatie En Marktwerking Bij Arbeidsongeschiktheld (PEMBA - Premium Differentiation and Market Working for Occupational Disability) (1998)**

Since 1 January 1998 the Pemba act governs differentiation in contributions and market forces in occupational disability insurances. The main points of the legislation are as follows.

- The WAO contribution has become an employer contribution, and varies per company. The contribution consists of two parts: a basic premium and a differentiated contribution. The basic premium is the same for everyone; the differentiated contribution depends on the number of employees in the company claiming WAO benefit.
- The Pemba legislation allows employers to carry the WAO risk themselves. In this case, the employer takes over the WAO benefit for five years from the social security administration agencies. Companies can choose to meet the costs themselves or to take out private insurance. By taking out employer’s own risk, the companies are no longer obliged to pay differentiated contribution.
- The Algemene Arbeidsongeschiktheidswet (AAW - General Invalidity Benefits Act) has been scrapped, making way for two new acts: the Wet Arbeidsongeschiktheidverzekering Zelfstandigen (WAZ - Invalidity Insurance (Self-employed Persons) Act) and the Wet arbeidsongeschiktheidverzekering jong gehandicapten (Wajong - Disablement Assistance Act for Handicapped Young Persons). Through the WAZ self-employed people are entitled to a minimum benefit in the event of long-term incapacity for work (the person must be at least 25% occupationally disabled). The Wajong provides incapacitated young people with a minimum benefit (the person must be at least 25% occupationally disabled) (Minszw, Lisv and VSV).

**Wet op de REïntegratie Arbeidsgehandicapten (REA - Disability Re-integration Act) (1998)**

Employers are often hesitant to employ occupationally disabled people, as they are worried about the potential risks involved. In order to remove this barrier the Wet op de REïntegratie Arbeidsgehandicapten came into force on 1 July 1998 (Minszw,
Lisv and VSV). Re-integration instruments have been extended, improved and simplified, like in the case of the placement and transfer budget. The placement budget is a fixed sum paid out to the employer for employing an occupationally disabled person. The transfer budget applies if the occupationally disabled employee is transferred to a different position within the same company (Minszw, Lisv and VSV).


The Arbeidsomstandighedenwet of 1998, which came into force on 1 November 1999, is based on the premise, that employers and employees are jointly responsible for a sound working condition policy. Each employer is required to map out working conditions risks within the company by a so-called Risk Inventory and Assessment (RI&A) and to draw up a plan of action based on this RI&A. In the plan of action, the employer is obliged to describe how working conditions risks are to be tackled within a specified time scale. The employer has to report at least once a year on the implementation of the plan of action (Minszw and Lisv).

An important extension of the Working Conditions Act of 1998 concerns the administrative penalty, enabling the Arbeidsinspectie (Health and Safety Inspectorate) to impose an immediate fine in case of a violation of the Arbowet, Arbobesluit (Working Conditions Decree) or Arboregeling (Working Conditions Regulations). The Arbeidsinspectie can take a number of measures, ranging from issuing a warning, setting requirements, issuing a fine or official report, stopping work or a combination of these. (Minszw, Lisv).

**WAO Plan of Action (1999)**

The second Kok Cabinet submitted a WAO Plan of Action to the Dutch Parliament in January 1999, aimed at reducing the influx into the WAO and stimulating outflow, which still remained too low. The main points of the plan of action, covering three separate areas, are as follows.

1. Improving medical and labor expert examinations using the following measures.
   - Abolishing pro forma examinations (these examinations were based on administrative criteria if the medical examination could not be completed in time; pro forma examinations almost always resulted in full WAO benefit).
   - Where advisable, re-examine occupationally disabled employees on a more regular basis.
   - Pay greater attention to the efforts made by the occupationally disabled employee to find work and impose stiffer fines if they are not putting enough effort into finding work.

2. Faster return to the labor process of ill or partially occupationally disabled employees. The rules and procedures concerning the first year of illness appeared to be flawed. Employers had to submit a provisional re-integration plan to the social security administration agency after 13 weeks. In practice,
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this was too generous a deadline, and often involved a lot of red tape rather than resulting in punishing those employers who are genuinely negligent. The Secretary of State therefore proposed to bring forward the notification date to 6 weeks, and to abolish the employer’s obligation to submit a reintegration plan.

3. Improving working conditions on the work floor using Arbo agreements. The Kok cabinet wished to conclude at least 20 Arbo agreements in their cabinet period with those industry sectors most at risk from occupational disability. In these agreements, employers, employees and the government make agreements per sector for minimizing the risk to health and safety. The main focus of attention will be on reducing psychological problems (work pressure) and joint, back, arm and leg pain (Minszw).

Legislation Covering Social Security Organization

During the two Kok Cabinet periods, the Dutch government profoundly changed the social security organization two times.

In 1997 the Organisatiewet Sociale Verzekeringen (OSV – Social Security (Organization) Act) provided for a structure in which five social security administration agencies (UVI’s) would compete for social security administration business on a market where new entrants were allowed. The UVI’s were to become private organizations with strictly separated public and private businesses. Their public business would be controlled by an independent governmental organization, the Landelijk Instituut Sociale Verzekeringen (Lisv - National Institute for Social Insurances). This model was chosen in the privatization of other public services in that period as well, like in the cases of the Nederlandse Spoorwegen (Dutch Railways) and KPN Telecom (Dutch telecommunications) in which their network operations (public services) were separated from their private services and in which public services were controlled by an independent governmental organization.

In the SUWI act (into force since 1 January 2002) the Dutch government took the opposite direction, providing for a structure in which all five UVI’s merged with the Lisv into one organization governed by public law, the Uitvoeringsorgaan Werknemers Verzekeringen (UWV – Body Implementing Employee Insurance Schemes).


In 1995 and 1997, important changes were introduced to the OSV, changing the structure of the organization of social security administration.

The Landelijk Instituut Sociale Verzekeringen (Lisv - National Institute for Social Insurances) was introduced to take over the duties of the industry associations. From 1952 the Dutch industry was categorized into 26 industries, each having their own industry association responsible for the administration of social security insurances for the employers and employees of their industry. In the period
after 1952, the industry associations founded administration agencies to implement the administration of social security insurances. This way Gak, Cadans, GUO and SFB were founded. From the first of March 1997, Gak, Cadans, USZO, GUO and SFB became social security administration agencies (UVI’s) and were to be commissioned by Lisv. The implementation of social insurance schemes was to be supervised by the College van Toezicht Sociale Verzekeringen (Ctsv – Social Security Supervisory Board) (Minszw).

Lisv was a public institute under direct responsibility of the Dutch Ministry of Social Affairs and Employment, more specifically under the direct responsibility of the Parliamentary Under-Secretary of Social Affairs and Employment. Lisv’s responsibilities included the execution of the Occupational Disablement Benefits Acts, the Unemployment Benefits Acts and the Sickness Benefit Acts in the Netherlands. Lisv commissioned the social security administration agencies to carry out the actual allocation of these benefits, the collection of premiums and inspection to prevent fraud. The social security administration agencies operated on a contractual basis. The contract specified which tasks they had to carry out and at what costs. Concerning these contracts the Lisv consulted a number of ‘sector councils’, set up by employers and employee organizations. Each sector council had the right to advise the Lisv in matters specific to the industrial sector it represented.

The OSV of 1997 aimed at more competition in the field of social security administration. The introduction of competition was introduced in two phases. In the first phase Lisv became the formal commissioner and sector counsels became commissioners as regards content. This way the sector counsels would become real customers with differentiated demands, but the funding of UVI’s to perform their social security administration came from Lisv. In the second phase, new entrants were allowed to enter the UVI market and employers were free to choose their UVI as supplier of administrative social security services. The first phase was introduced to facilitate existing UVI’s in getting used to market forces and in the second phase new entrants and free choice of suppliers was allowed to create more competition.

Structuur Uitvoering Werk en Inkomen (SUWI - Implementation Structure of Labor and Income) (1999)

In March 1999, the second Kok Cabinet revealed its standpoint on the implementation structure of labor and income. The SUWI act came into force on 1 January 2002. The basic idea behind the SUWI law is to have one organization governed by public law, the Uitvoeringsorgaan Werknemers Verzekeringen (UWV – Body Implementing Employee Insurance Schemes) to implement employee insurance schemes (Minszw). The UWV is a merger of the former 5 UVI’s (Gak, Cadans, USZO, GUO, SFB) and LISV. UWV is responsible for the following.

- Collecting employee insurance schemes premiums (like for the WAO, WW, Wajong, WAZ).
- Claims assessment and benefits payment for employee insurance schemes.
- Allocating subsidy funds under the act REA.
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- Acting as a contract partner for concluding agreements with re-integration companies insofar as no other commissioning authority has been appointed (like employers or their occupational health care service provider). The UWV allocates re-integration funds for re-integration projects performed by private re-integration companies.
- Managing employee insurance schemes social funds.
- Categorizing employers into sectors for redundancy pay equalization.
- Providing information on employee insurance schemes.
- Advising on implementation issues of proposed regulations and legislation.

The Algemene BijstandsWet (ABW - National Social Security Assistance Act) remains under the responsibility of Gemeentelijke Sociale Diensten (GSD - Municipal social services) and the GSD’s are responsible for the reintegrating of all ABW benefits claimants. The actual implementation of re-integration projects is outsourced to private re-integration companies.

The re-integration of unemployed and occupationally disabled people is to be carried out by private re-integration companies commissioned by employers or their occupational health care service provider, UWV or GSD. Re-integration is largely privatized.

The Landelijk Instituut Werk en Inkomen (LIWI – National Institute for Work and Income) is responsible for all public employment services issues. LIWI makes this responsibility operational through a network of Centra Werk en Inkomen (CWI - Centers for Work and Income) where client contact takes place on a local level. CWI’s are primarily responsible for offering public services to link up supply and demand in the job market, i.e. through the national vacancy bank and national applicants bank, intermediation and information and advice. It is also responsible, partially on the basis of clear agreements with the UWV and GSD’s, for the administrative intake (collecting information for WW or ABW application) and the determination of the distance of the client to the job market.

References

Several websites concerning social security have acted as sources for this appendix during the period January – April 2001.