HvA JobService B.V.

The WIA (Work and Income (Capacity for Work) Act)

On 29 December 2005, the WAO (Invalidity Insurance Act) was replaced by the WIA (Work and Income (Capacity for Work) Act). This Act makes a distinction between full and long-term invalidity, and partial capacity or incapacity for work.

Full and long-term invalidity.
The IVA (Fully Disabled Persons Income Scheme) applies to employees who are fully incapacitated for work in the long term.

An employee who has been assessed as 80% or more incapacitated for work, and who the authorised UWV medical examiner does not expect to return to work, is covered by the IVA. Such an employee will receive a benefit amounting to 75% of their last salary. This salary has a maximum threshold for WIA purposes, as does the WW (Unemployment benefit paid under the Unemployment Insurance Act). For 2020, this maximum wage threshold has been set at € 57,232.-. The maximum IVA benefit is therefore € 42,924. IVA benefits continue until an employee reaches state pension age.

Partially, or fully but not permanently, incapacitated for work.
An employee who is partially incapacitated for work, or who is fully but not permanently incapacitated for work, is covered by the WGA (Return to Work (Partially Disabled Persons) Scheme). Here the emphasis is on the employee’s capacity rather than their incapacity. In other words: the percentage that the employee *can* work, despite their partial incapacity for work.

Residual earning capacity.
An example:
A 36-year-old male employee, who earns €30,000 per year, becomes ill. After two years of illness, the employee is assessed to see what he can do and earn in a generally acceptable job, despite his limitations. This is known as his residual earning capacity. If this capacity is set at €15,000 per year, his ability-to-work percentage is 50%.

If the disability percentage is below 35%, the employee is not covered by the WGA (Return to Work (Partially Disabled Persons) Scheme). In other words: an employee who is at least 65% able to work is not eligible for a WGA benefit.

Under certain conditions, the WGA may grant a partial benefit to an employee who is between 35 and 80% incapacitated for work. An employee deemed more than 80% incapacitated for work at present, but not permanently, will receive the full benefit. (There is a chance that they will recover.) There are three WGA benefits: WGA wage-related benefit, WGA top-up benefit and WGA follow-up benefit.

WGA wage-related benefit.
When an employee is declared incapacitated for work, they will receive WGA wage-related benefit. This can be seen as an adjustment benefit. It is identical to the WW (unemployment benefit). It is based on the previous salary and the working history from 18 years of age. Every year spent in employment is

worth one month of benefit. The wage-related benefit lasts a minimum of three and a maximum of 38 months. Detail: during the first two months, the benefit is 75% of the last (capped) wage; it is then reduced to 70%.

As the employee in our example was 38 when he became unable to work, he is eligible for WGA wage-related benefit for twenty months. If he earns no other salary during this period, he will receive 70% of his previous income, i.e. €21,000 per year.

However, if the employee manages to continue earning half of his previous salary during this period, his earnings from employment will be €15,000. This amount will be supplemented by 70% of his loss of earnings since becoming incapacitated for work; in this example, this is 70% of €15,000, equalling €10,500, taking his total income to €25,500. This makes it worthwhile for people to continue working while they are receiving WGA wage-related benefit. This incentive is even stronger in the period after the WGA wage-related benefit expires.

WGA top-up benefit (employee is working).

When the period for WGA wage-related benefit expires, the WGA top-up benefit (wage supplement) comes into effect. The level of this benefit depends on whether, and the degree to which, the employee is using his residual earning capacity. In our example, this was set at €15,000. If he is earning at least half of this amount, he will be eligible for WGA top-up benefit. Continuing our example: if the employee is earning €7,500 or more from employment, the situation is as follows. The employee is earning €7,500 and receiving €10,500 as WGA top-up benefit, or the employee may be using his entire residual earning capacity and therefore earning €15,000. If so, he will still receive a top-up benefit of €10,500. In other words, the more you work when partially incapacitated for work, the higher your overall income.

WGA follow-on benefit (employee is not working).

If the employee in our example does not succeed in making use of half of his residual earning capacity, he is eligible for a WGA follow-on benefit. The formula for calculating this is as follows:

70% of the minimum wage multiplied by the disability percentage.
In other words: €22,423 x 70% x 50%, which comes to a gross annual income of €7,498. This is the maximum benefit as long as the employee in our example does not earn €7,500 from employment.

The various degrees of partial incapacity for work result in the following income scenarios:

Degree of incapacity for work	Benefit percentages	WGA follow-on benefit
35-45%	28%	€5,998
45-55%	35%	€7,498
55-65%	42%	€8,998
65-80%	50.75%	€10,872

As these amounts are considerably below the minimum subsistence income, under certain conditions, employees may be eligible for supplementary benefit under the terms of the TW (Supplementary Benefits Act). The TW guarantees employees the minimum subsistence income. This is 70% of the gross minimum wage, or €14,996.- per year. Any income earned by a partner is deducted from this amount.