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Employment Policies for Disabled People
in Eighteen Countries: A Review

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Employment Policies for Disabled People in Eighteen Countries: A Review

Patricia Thornton and Neil Lunt

Social Policy Research Unit
University of York

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PREFACE AND ACKNOWLEDGEMENTS

In December 1992, the United Kingdom Department of Employment commissioned a study from the Social Policy Research Unit at the University of York which it published in its research series in October 1993 as *Employment Policies for Disabled People: a review of policies and services in fifteen countries*. We gratefully acknowledge the contribution of the Employment Department to making possible the much later study reported here.

The idea to expand, revise and bring up to date the 1993 publication emanated from three sources in early 1996. First, we were approached by the International Labour Office in Geneva requesting permission to deposit the text on the newly established electronic database set up jointly with GLADNET (Global Applied Disability Research and Information Network).

As well as offering immediate access through the Internet this text database has the advantage of being easily amended and up-dated. Shortly afterwards, we learnt at the GLADNET second annual meeting about considerable interest from policy-makers, campaigners, information-users and researchers worldwide in a source book on employment policies for disabled people and of a demand for up-dated information. Members of GLADNET were enthusiastic to contribute to a revised version and to collaborate in what became one of the network's first joint research ventures.

Simultaneously, we learnt of the interest of the European Commission (DGVE.3) in our work and of its need for a comprehensive overview of developments in employment policies for disabled people in the European Union Member States. An application for a grant under the framework of the HELIOS II programme was successful and the ILO and SPRU contributed the other resources needed to undertake a substantial revision and expansion of the original study.

We wish to express our gratitude to all who encouraged and supported us in those early stages and who helped make financial support possible, especially Willi Momm, Bernard Wehrens and André Gubbels.

This new publication is very much a joint venture. Member States of the European Union contributed written accounts of developments since 1988 and their representatives on the Employment Working Group of the

HELIOS II Economic Integration programme offered any further detailed information required. We are grateful to the many officials of national government departments who responded and, in particular, to those who generously offered commentaries on our accounts of national policies and programmes.

In re-visiting the review in 1996, we were fortunate to have the co-operation of GLADNET members in many of the study countries who, as researchers and information-providers, gave a non-governmental perspective on national policies and provision. Some entered into a formal agreement with the project, while others generously provided information and commentary in their own time. Thanks are due to them all, in particular to those who made the most substantial contributions to the gathering and interpretation of national sources: Cameron Crawford, Mathilde Niehaus, Bryan Palmer, Paul O'Leary, Erik Samoy, Charlotte Strümpel, Dominique Velche, Edwin de Vos and Albrecht Winkler. In addition, many other committed individuals and organisations in the 18 countries in the study generously volunteered information and commentary which added value to the Review.

Colleagues in SPRU and the Department of Social Policy and Social Work contributed to the translation of source material and the assembly of some of the country accounts; particular thanks are due to Andrew Nocon and Anne Shepherd. The final publication would not have been possible without the meticulous attention of Teresa Frank who prepared the typescripts, Jenny Bowes who type-set the text and Lorna Foster who edited and proof-read.

The full text of *Employment Policies for Disabled People: A Review* is also available from the Social Policy Research Unit on computer disk and accessible to GLADNET members through the GLADNET on-line text database, with the kind support of the ILO and the GLADNET Association.

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INTRODUCTION

The original intentions of the study reported here were modest: to revise and up-date a 1993 fifteen country study of disability employment policies, legislation and services; and to extend coverage to 18 countries and so include all member states of the European Union, in addition to Australia, Canada and the USA.

The results are quite different. The scale of the policy developments and changes since 1993 took the project far beyond a mere up-dating of statistics and revision of details of existing measures. Many country chapters have been radically rewritten to take account of new policy dimensions. Improved access to evaluative material in several countries has introduced a critical edge to an essentially descriptive source book of policy measures.

Background

In 1992 the Department of Employment in the United Kingdom commissioned the Social Policy Research Unit at the University of York to undertake a desk-top review in the field of disability and employment. The study aimed to 'provide an overview of legislation, schemes and services aimed at integrating disabled people

into the workforce' in the then European Union member states (except the UK) and in the United States, Canada, Australia and Sweden. The review sought to outline the types of provision in place within each country, look in greater detail at the implementation of different legislative and administrative approaches, and discuss their effectiveness in achieving objectives within the national framework.

That study was commissioned in late 1992 and carried out by the authors over four months, with a further month devoted to writing and preparing the final document for publication. The report was published in October 1993 by the Employment Department in its Research Series as *Employment Policies for Disabled People: A review of legislation and services in fifteen countries*.

The authors were encouraged to revisit the study in 1996. Feedback from stakeholders suggested that the work had been useful. It had brought together previously dispersed material and appeared to have stemmed constant 're-invention of the wheel'. The 1993 publication had been particularly relevant to countries which were developing disability employment policies and considering ways forward. Users had ranged from developing countries and economies in transition looking to institute new policies, to countries with more established policies and traditions looking afresh at their disability employment strategies. The interest in the international situation was not confined to government departments but came also from organisations trying to influence the debates.

The study reported here was made possible by a grant from the European Commission within the framework of HELIOS II and by support from the Vocational Rehabilitation Branch of the International Labour Office and the Social Policy Research Unit.

Sources and methods

The 1996 study built upon the sources used for the 1993 publication and also tapped new sources.

At national level the main sources were the various government departments with responsibility for some aspect of disability and employment, including departments of labour, welfare, health, and social security. The researchers also approached organisations responsible for monitoring and enforcing parts of legislation, as well as statutory and non-statutory service providers. In 1993 it was not always clear in which department responsibility for disability employment policy and services was located. Responsibility was typically scattered across a number of departments and not necessarily co-ordinated.

In 1996 formal links were established between the researchers and officials from EU member states who sat on the HELIOS II Employment Working Group. The researchers had access to national questionnaire responses to the follow-up to the 'Report from the Commission on the Application of Council Recommendation 86/379 EEC on the Employment of Disabled People in the Community'. We were also authorised to approach the official representatives for further information as required.

In both 1993 and 1996, the authors sought the assistance of individuals identified as knowledgeable and well placed to describe developments in particular countries. For the earlier study, contacts were made in an ad hoc fashion. In 1996 formal arrangements in six countries were made with researchers in the field who acted as paid 'national informants'. National informants not only ensured the accuracy and relevance of country accounts but also, through their access to own-language material, brought a more critical perspective to the evaluation of national policy than otherwise would have been possible.

In most other countries, researchers, activists, practitioners and some policy-makers provided assistance on an informal basis. The networks established in the intervening years, notably GLADNET (the Global Applied Disability Research and Information Network), made it much easier in 1996 to identify the people best placed to help.

Revisiting the study in 1996 presented an opportunity to interpret 'national policy' more broadly and to review policy initiatives and practices on the part of employers', employees' and disabled people's organisations. As in 1993, representatives of Disabled Peoples' International were invited to contribute to the study. National representative organisations of employers and employees were approached in the European study countries but the response was limited.

Both the 1993 and the 1996 studies drew on a range of legislative texts, published documents, conference papers, working papers and assorted grey material. Documents were provided by international and European bodies, including the International Labour Office, United Nations, Organisation for Economic Co-operation and Development, European Commission and Council of Europe. Among them were reviews of specific areas of the enquiry, such as legislation and sheltered employment. Other sources drawn upon included literature produced by pan-national disability organisations, such as the World Deaf Association and World Blind Association. Other international and European disabled people's organisations were also contacted.

Published literature was accessed through database searches and abstracting services. In 1996, the task of literature retrieval was simplified by access to electronic text databases such as the specialist database on disability, employment and training held by GLADNET.

The study relied principally on English language sources, augmented by material provided by national informants.

Scope of the study

This is principally a study of policies and programmes (whether 'specialist' or 'mainstream') for people who are identified - or identifiable - as disabled. Little is known about the employment of disabled people outside the framework of formal programmes. The focus on special and priority policies and services ignores the fact that disabled people are consumers of services which are open to all.

Although for each country we have tried to locate employment policy for disabled people within the social policy context, depiction of the labour market policy context is more sketchy. Where information was available the study tried to show how provision for disabled people fits with that for other 'disadvantaged groups' in the labour market. Availability of information depended in part on the institutional context of services used by disabled people; for example, disabled people may be one of several groups eligible for targeted provision directed by general labour market administrations, rather than by the specialist services which provided information to the study.

In 1993 we noted the concentration on measures for the recruitment of disabled people and the dearth of information on development and career promotion of disabled employees within their employment. In 1996, however, we can report increasing attention to job retention and to the quality of employment obtained.

A particularly neglected area of coverage which we sought to develop in 1996 is the interface between disability benefits and employment policy, a policy area which in any case had increased in prominence in the intervening years. This we were able partially to address, principally in those countries which perceive it as a major policy concern.

Other dimensions of what might constitute disability employment policy could not be addressed adequately within the study. Many essential aspects of the employment infrastructure are missing: transport, access measures, education, housing, health and social services. Indeed, official sources rarely emphasised the contribution of such measures to the vocational integration of disabled people.

Assessment of effectiveness

Despite the broader canvass of the 1996 study, the focus remains fixed on 'national policies' as set by governments and on their effectiveness as seen from the same perspective.

The first problem is the identification of policy objectives. It is only where legislation is recent and a break from tradition that policy aims are clearly stated. Even so, their relative priority shifts with implementation. In certain countries policy is incremental, shifting marginally with the surrounding social and economic context, and current objectives are extremely difficult to identify. Moreover, provision on the ground may drive policy, rather than vice versa. A second, related, problem is the apparently low importance attached to ongoing evaluations in many of the study countries. Without clear-cut policy goals evaluation is, of course, problematic.

Almost all outcome data available have been quantitative. We lack qualitative data with which to put the numbers in context; a high number of people served or placements made does not mean a high level of customer satisfaction or of appropriate jobs. Similarly, the number of grants for adaptations in the workplace does not necessarily reflect the extent to which the demands of the job have been adapted to meet individual circumstances.

We noted in 1993 that where changes in process or in attitudes are the policy objectives, a system of monitoring is less likely to be in place.. However, with the policy shift towards voluntary action and attitudinal change and away from compulsion, and the move towards more individualised measures to support employment, there are some encouraging signs of process-oriented approaches to evaluation.

Presentation of country reports

Because information is not available uniformly for all countries the format of presentation cannot be entirely standard. The usual sequence is as follows:

- Policy and institutional context
- Definitions of disability
- Statistic Employment support services
- Open employment: legal obligations and rights
- Persuasion policies
- Open employment: financial measures
- Sheltered employment
- New forms of employment

The balance of information presented varies according to the current policy emphases in the countries studied. Chapters on France, Germany and USA are longer than those on the other fifteen countries because those countries policies were presented in depth in the 1993 report.

Country reports are presented in alphabetical order. The final chapter concludes with observations on policy and practice developments and issues remaining.

AUSTRALIA

POLICY AND INSTITUTIONAL CONTEXT

Disability policy and legislation

A commitment to 'ensuring that people with a disability have the same rights, choices and opportunities as other Australians, including the right to participate in community activities and, most importantly, the right to a meaningful job' was introduced in 1993-94 under the Social Justice Strategy of the Federal government of the time. There is, however, no entitlement to services based on need, nor any notion of a right to employment (Baume and Kay, 1995).

In Australia, legal provision for integration of disabled persons is bound up with legislative measures at both Commonwealth and State levels. The Human Rights and Equal Opportunities Commission Act (1986) gave a Commission the right to investigate complaints of discrimination on grounds which included race, colour, sex, religion and political opinion. The remit was expanded to include disability in the workplace in 1990. However, the Act itself does not outlaw discrimination. While sexual and racial discrimination were outlawed by the Sex Discrimination Act and the Race Discrimination Act, respectively, discrimination on the grounds of disability required new legislation in the form of the Disability Discrimination Act (1992).

Increased attention has focused on groups that have traditionally been disadvantaged in accessing disability services: Aboriginal and Torres Strait Islander people, those from non-English speaking backgrounds, people with psychiatric disabilities, and those with high support needs.

Labour market policy

Unemployment in Australia rose from 6.2 per cent in 1989-90 to 9.5 per cent in 1994. In early 1997, it stood at 8.7 per cent. The rise in unemployment has made it difficult for disabled people to obtain and maintain employment, particularly those without work experience (Office of Disability, 1995). The Australian economy has been experiencing changes in the structure of its labour market with a growth in part-time and casual employment. The industrial composition of employment has changed, with an increase in the service sector, while the manufacturing sector has continued its longer-term decline (Office of Disability, 1995).

A series of major policy changes in progress is affecting the entire labour force. The election of March 1996 saw a change from a Labour Government to a Liberal-National Coalition. In the 1996 Budget, a cut of \$1.8 billion from mainstream labour market programmes was proposed (a cut of 28 per cent). One result is that access to mainstream labour market provision will be increasingly competitive. Further, the targeting of employment assistance to job seekers based on capacity to benefit from the programme may exclude those with higher levels of need.

Evolution of disability employment policy

Throughout the 1970s and 1980s, the Government's underlying philosophy and approach to the provision of income support and services to disabled people was undergoing review (Office of Disability, 1995). The 1983 Handicapped Programme Review examined Commonwealth provision and led to the Disability Services Act 1986. In addition to supporting the Commonwealth Rehabilitation Service, this Act also identified two employment models, competitive and supported, and provided a funding mechanism which shifted the emphasis away from segregated employment services. The Commonwealth/State Disability Agreement, signed in 1991, set out the framework to rationalise and improve the way services are provided for disabled people and has recently been reviewed (Yeatman, 1996).

The Disability Reform Package (DRP), introduced in November 1991, sought to provide a more active system of income support for disabled people. Disabled people who might benefit were encouraged to

maximise their workforce potential through rehabilitation, training and labour market programmes, as identified by cross-departmental disability panels, and to take up part-time work options. The main elements of the DRP included changes to eligibility criteria for disability support pension and increased programme and rehabilitation places, as well as better co-ordination between the Department of Social Security, the Department of Employment Education and Training, and the Commonwealth Rehabilitation Service. The DRP also introduced specialist staff positions to enable agencies to work together.

A series of major reforms for disabled persons requiring employment services was announced in the 1996-7 Federal Budget. These reforms aim to improve services, create greater choice and allow flexibility between public, private and community sector services. The Federal Government will also create 1,000 new employment places for disabled people across the range of employment services. Over 1997 to 1998 a major change will be made to funding disability employment services and vocational rehabilitation, in an attempt to introduce equity. The funding system will move from block grants to one based on individual cases, targeting those individuals who are eligible for the disability support pension, who have high support needs and are looking for work. The market dominance of the Commonwealth Rehabilitation Service will be reduced and there will be a growth in the potential market share for private providers. There will be an increase in the number and diversity of providers and a reduced role for Government in service delivery.

The Commonwealth Employment Service (CES) and Commonwealth Rehabilitation Services (CRS) will cease to operate as previously. Part of the CES will merge with the Department of Social Security to form a 'one-stop' service delivery agency. According to budget papers, individuals will be directed to Employment Placement Enterprises with three types of activity; Labour Exchange Services, JobSearch Assistance and Intensive Employment Assistance.

Attempts to improve efficiency are being made through performance-related funding. Performance indicators in the 1996-97 Budget set out targets to increase by four per cent the number of clients supported by disability employment services, and also to establish reliable baseline data on numbers placed in open employment. For equity purposes there is also the attempt to establish baseline data on the proportions of groups with special needs (based on Aboriginal and Torres Strait Islander origin, gender and geographic location) in funded disability employment services, compared with proportions in the general population.

Policy-making and implementation

Responsibility

The Department of Health and Family Services (DH&FS) (formerly the Department of Human Services and Health) has primary responsibility for funding specialist service under the Disability Services Act 1986. The Office of Disability within DH&FS provides policy advice to the Government on the needs of all disabled persons and analyses the effectiveness of government programmes across all portfolios in the delivery of services. DH&FS is responsible for the Commonwealth Rehabilitation Service (CRS) which provides rehabilitation services to disabled people.

The Department of Education, Employment, Training and Youth Affairs (DEETYA) (formerly the Department of Education, Employment and Training, DEET) is responsible for mainstream labour market programmes. The Commonwealth Employment Service (CES) is the mainstream public provider of employment services for the workforce.

The Department of Social Security (DSS) provides income support for disabled people and the supportive framework for those individuals able to participate in the labour market.

The Disability Reform Package, which sought to increase job opportunities for disabled people, brought

together the (now) DH&FS, DEETYA and DSS.

The Disability Task Force, established in 1988, involves representatives from DSS, DEETYA, DH&FS and the Department of Finance, as well as participation from the Social Justice Secretariat of the Department of Prime Minister and Cabinet and the Department of Veteran Affairs. The Task Force concerns itself with broad disability policy. A Review of the Task Force carried out by the Office of Disability (1995) suggested that it was effective in cross-departmental policy development, implementation and coordination, and information exchange. The Task Force also developed, implemented, monitored and evaluated the Disability Reform Package. It continues its work and will be reviewed again in 1998.

Organisations of disabled people

Some believe that the disability rights movement in Australia is fragmented and organised around disease labels, thus reducing its impact on policy development (Newell, 1996). The Disabled People's International (Australia) has collapsed and lacks significant policy influence. It has been suggested that in setting standards under the Disability Discrimination Act, representation of disabled persons has been minimal, and that the process has been dominated by non-disabled bureaucrats and provider interests (Newell, 1996). The Disability Task Force review (Office of Disability, 1995) considered that the Disability Task Force should ensure greater input of disabled people during deliberations prior to the development of policy responses.

At a national level it was difficult to find disability in the policies of the political parties which fought the election in March 1996 (Newell, 1996). The Australian Law Reform Commission (1996) recommends that the Commonwealth create a national office on the Equal Status of People with a Disability to advance the interests of disabled people generally. The Office should be located in a central agency rather than in a Department.

DEFINITIONS OF DISABILITY

There is some controversy over definitions between organisations of disabled persons and the State and Commonwealth Governments. Definitions of disability can also differ between Departments, making it difficult to determine exactly which groups of people are being referred to and whether programmes are able to meet a range of needs depending on type and level of disability (Senate Standing Committee, 1992).

The Disability Discrimination Act 1992 takes a very broad view of disability, considering it to be physical, intellectual, psychiatric, sensory, neurological or learning disabilities. It also includes discrimination against a person because they have some disease-causing organism (such as the AIDS virus) present in the body.

The Disability Services Act 1986 does not include a definition of disability but specifies the target groups in each of its two parts. Thus, the target groups are those persons with a disability that:

- (a) is attributable to an intellectual, psychiatric, sensory or physical impairment or a combination of such impairments;
- (b) is permanent or likely to be permanent; and
- (c) results in
 - (i) a substantially reduced capacity of the person for communication, learning or mobility; and
 - (ii) the need for ongoing support services.

STATISTICS

There is no coherent system for collecting information on the number of disabled Australians although the

ABS and Australian Institute of Health and Welfare put this at about 18 per cent of the total population (Australian Law Reform Commission, 1996). The Australian Bureau of Statistics survey (1993) estimated that 3,176,00 (18.0 per cent) of the Australian population had a disability, and 14.2 per cent were handicapped¹. Table A.1 gives a breakdown of the severity of disability. Table A.2 outlines the incidence of disabling conditions among the population.

Table A.1 Severity of disability in the Australian population

Severity	Number
Severity not determined	382,000 (2.2%)
Mild disability	941,000 (5.3%)
Moderate disability	455,500 (2.6%)
Severe disability	310,100 (1.7%)
Profound disability	419,000 (2.4%)

Source: ABS, Survey of Disability, Ageing and Carers (1993)

Table A.2 Type of disabling condition in the Australian population

Condition	Percent
Mental disorders	11.1
Eye disorders	3.8
Ear disorders	14.2
Nervous	5.6
Circulatory	8.7
Respiratory	9.1
Musculoskeletal	27.2
Other	20.2
Total	100

Source: ABS, Survey of Disability, Ageing and Carers (1993)

Just under half of the number of persons with a disability or handicap living in households and aged between 15 and 64 years of age were in the labour force, either employed or unemployed, in 1993. This compared with three-quarters of non-disabled people. The employment rate for disabled people in the labour force was 79 per cent, a similar level for both men and women.

Baume and Kay (1995) quote ABS figures that suggest that a further 123,00 people could benefit from the Disability Services Programme (of which 38,800 are unemployed; 57,700 are permanently unable to work; and 26,700 are not in the labour force). The need for services far exceeds places and there is inequity in service provision (Australian Institute of Health and Welfare, 1996).

EMPLOYMENT SUPPORT SERVICES

Mainstream services

The DEETYA is mostly concerned with labour market training and offers training and work experience programmes. The Commonwealth Employment Services (CES) is the mainstream provider of employment services for the workforce.. The CES capacity to respond to needs of disabled people was enhanced in 1991 by the recruitment of specialist staff, and there are now around 120 Disability Jobseeker Advisers.

Within DEETYA, two areas of the Special Employment, Education and Income Support Programmes are relevant to the integration of disabled persons: Employment Access Programme (EAP), made up of JobTrain, JobStart, JobSearch Assistance and Special Interventions; and Community Based Strategies (SkillShare). These schemes are coordinated through the local CES offices, with the aim being to assist jobseekers who are disadvantaged in the labour market to gain access to and secure long-term employment through the provision of assessments and training, wage subsidies to employers, training in job search techniques, vocational training and mobility assistance.

JobTrain aims to assist the long-term unemployed and other disadvantaged job seekers by providing vocational training for entry into the labour market through provision of appropriate courses. Under its provisions, short-term vocational courses are developed at the local level to meet individual needs. Courses are provided locally through technical and further education institutions, or other training providers on behalf of the CES. Courses can be up to 12 months in duration. The length of a JobTrain training programme may be extended for disabled people who are unable to complete a particular course successfully within the usual time period.

Participants in the JobTrain component may receive the Formal Training Allowance (FTA) plus ancillary allowances. Participants over 21 years of age also receive a training component of \$30 per week, as do sole parents aged under 21.

From late 1991, a special supplement (maximum \$5,000 per individual) has been available for training providers funded under JobTrain for lease of special equipment and hire of specialist services to assist particular disabled people.

JobTrain provision favours certain groups. Given the nature of the courses, it provides for those physically disabled individuals or those with intellectual or psychiatric disabilities who have levels of numeracy and literacy and who can soon be job ready (Senate Standing Committee, 1992).

JobSearch assistance seeks to address the needs of disadvantaged job seekers with instruction in job search techniques. Disabled people comprise over one-tenth of Job Club and of JobSearch Training commencements. Most taking part have milder disabilities.

The intention of the then Government under the Disability Reform Package was to create 8,000 additional places primarily in existing labour market programmes such as JobTrain, JobStart (see Financial Incentives) and JobSearch training. In addition, some programmes are targeted at specific disability groups such as Work Experience for People with Disabilities, and Post Placement/Training Support for People with Disabilities for Disability Reform Package clients on disability support pensions.

The new programme exclusively for disability support pension recipients, *Work Experience for People With Disabilities*, is a fully subsidised work experience programme mainly in the private sector for those with a high level of disability who cannot achieve a placement for a mainstream wage subsidy programme (see also Financial Incentives).

The Post Placement/Training Support for People With Disabilities in Study provides people with a higher level of disability with individual support and assistance, while in training or initial employment, with workplace familiarisation, supervision on new equipment, travel to work/training arrangements, meals and work break arrangements and regular contacts for advice and encouragement.

The second sort of DEETYA programme to assist the integration of disabled persons is more community-based. *SkillShare* is a labour market programme that brings together community based programmes (Community Youth Support Scheme, Community Training Programme and Community Volunteer Programme) and has the aim of assisting the long-term unemployed and other 'most disadvantaged' people.

SkillShare operates as an Australia-wide network of almost 400 projects, including information technology centres and Disability Access Support Units (DASUs). DASUs were established as a response to an earlier review which indicated some potential shortcomings in the SkillShare procedure. They are seen as mostly dealing with low or moderate levels of need. In 1990-1 a disability strategy was developed and ten DASUs came into operation.

The aim of SkillShare is to obtain or retain employment or proceed to further education. Participants in the SkillShare receive the FTA. In 1994, there were 130,000 people assisted by SkillShare projects based around structured skills training, personal support and referral services, and enterprise activities.

The Special Intervention Scheme addresses four main barriers: English as a second language, literacy, outdated work skills and employment-based personal development needs. Disabled people are one of the main priority groups for service support of this type.

Table A.3 shows the types of programme commenced by disabled people from 1991 to 1994.

Table A.4 shows the types of programmes commenced by Disability Reform Package (DRP) clients. DRP clients are defined as CES registrants in receipt of either disability support pension or sickness allowance or those that meet certain Disability Panel criteria.

The Ronalds Report (1990) noted that mainstream training programmes had not provided many opportunities for disabled people. Other criticisms centred on programmes whose major focus is to reduce numbers receiving unemployment benefit, rather than to meet the real training needs of disabled people. Under the DRP, however, some 6,500 individuals returned to work from disability benefits in 1994-5, a rise of 70 per cent on the previous year.

Table A.3 Type of programme commenced by disabled people 1991-1994

Programme	Percentage of DEET/DEETYA disabled clients undergoing programmes			
	1991 (%)	1992 (%)	1993 (%)	1994 (%) Jan - June
Aboriginal Programme	1	1	1	1
SkillShare	13	12	13	10
Special intervention scheme	1	1	1	1
WEPD	n/a	1	3	3
JobSearch	13	8	6	9
JobTrain	42	26	17	17

JobStart	21	23	30	23
Other	1	1	1	2
Total	100	100	100	100
Total DEET disabled clients	41,572	59,380	77,071	41,154

Source: *Office of Disability (1995)*

Table A.4 Types of programme commenced by DRP clients

Programme	Percentage of total programmes commenced by DRP clients		
	1992 (%)	1993 (%)	1994 (%) Jan to June
SkillShare	5	12	11
Special Intervention Schemes	18	17	18
WEDP	21	20	16
JobTrain	15	18	19
JobStart	23	20	17
JobSearch training	5	5	8
PP/TSD	4	2	1
Jobskills	1	1	2
Total number on programmes commenced	1,023	7,598	5,763

Source: *Office of Disability (1995)*

As a result of the DRP, fewer people are fully dependent on income support than would otherwise have occurred, and more participate in rehabilitation, education and training. Employment outcomes are positive. In 1994-95, 25,970 came under the auspices of the DRP: 49 per cent under the CRS; 28 per cent under DEETYA; and 22 per cent CETP/SE. During 1994-5, 17,973 programmes were completed and 8,721 led to employment outcomes.

Changes proposed in the 1996 Budget raise concern. The labour market programme cuts mean that the number of places on programmes such as Job Skills and SkillShare will be cut by 200,000, which may cause particular problems for disabled people. The Government, however, will create 1,000 new Disability Services Programme places, at a cost of \$4.2 million in 1996-7 and \$7 million in the following three years. This growth results from savings elsewhere in the programme and the continuation of earlier budget decisions, rather than from additional funds newly appropriated in the 1996-97 budget.

Currently, less emphasis is placed on training programmes, such as JobTrain, and increasing emphasis on wage subsidy programmes, such as JobStart and Work Experience for Disabled People (Office of Disability, 1995).

In March 1992 DEET received additional funding for 9,000 places per year for DRP clients including the External Disability Assessment Programme organised by CES which provides an assessment of abilities. Disability Access Support Units were introduced into the SkillShare programme in 1991 to assist SkillShare staff with the needs of disabled people.

Specialist services

The Department of Health and Family Services is the main provider of funding for actual employment, as opposed to training programmes, for disabled people. The Department is responsible for the Commonwealth Rehabilitation Service (CRS) which provides rehabilitation services to disabled people, as well as for dealing with the provision of specialist employment support services under the 1986 Disability Services Act (DSA).

Commonwealth Rehabilitation Service

The DSA allows the Commonwealth to provide rehabilitation services directly through the CRS. The Act provides that rehabilitation programmes may include: employment and vocational training, educational courses and programs, and mobility and other independent living training aids, home/workplace adaptation tools.

The CRS has more than 90 rehabilitation units that operate around Australia. Services provided include vocational counselling and skills training, and employment and support. They are provided to disabled people of working age who are seen as having the capacity to make skill gains. After the 1990-91 Budget, the CRS established special rehabilitation units with 1,200 places to help people with psychiatric disabilities return to work.

As part of the Disability Reform Package, the role of the CRS was expanded to provide an extra 4,500 places a year by 1993-94. This was to cope with the extra demand from the introduction of the more active employment strategy for disabled people. In 1994-95 the CRS supported 41,509 individuals, of whom 6,840 were placed in employment. Vocational assistance and training programmes included counselling and planning, improving skills, modification of work sites, equipment, and work training placements. The CRS is now decentralised. Its average programme duration lasts six to nine months.

Work Training is a scheme run by the CRS which provides on-the-job training for disabled people. The scheme involves arrangements with an employer to provide instruction and work experience for an agreed period of time. The scheme provides an opportunity for the employer to assess the suitability of the participant for a specific job, and an opportunity for the participant to acquire work skills in the open workforce. There is no cost to the employer; the CRS pays most participants on the scheme a training allowance and can also provide them with essential clothing or tools associated with training. The scheme has been endorsed by the Australian Council of Trade Unions.

The Disability Services Act also instituted a major reorganisation of disability service provision and funding. The Act sought to encourage innovation within the context of the delivery of employment services for disabled persons. It lists various services that can be approved for grants by the Federal Government. The DSA tied the funding of services to compliance with its principles, objectives and guidelines. As outlined earlier, the underlying purpose of the Act was to shift services from sheltered to supported and open employment, the primary aim being to provide real, paid work.

Under the DSA two kinds of services are available to help disabled people who receive section 10 funding: competitive employment training and placement services, and supported employment services for higher support needs which depend on the individual requirements of employees.

Competitive Employment Training and Placement services (CETP)

Under the DSA these are seen as 'services to assist persons with disabilities to obtain and retain, or retain, paid employment in the work-force, and include:

- (a) services to increase the independence, productivity or integration of persons with disabilities

in work settings;

(b) employment preparation, and employment and vocational training services; and

(c) services to assist the transition of persons with disabilities from special education, or employment in supported work settings, to paid employment in the work-force’.

They aim to provide for people who need time-limited support services in order to gain a place in the general labour market. The aim is to provide jobs in settings where the majority of workers are non-disabled. CETP does not focus on general training; rather, provision occurs on-the-job and is job-specific. Methods adopted for securing placements within competitive employment include cold-canvassing. The client is typically given an assessment and an initial programme of training and support is established. Service providers include private organisations and public and charitable institutions (Roy Morgan Research Centre, 1992).

Services are funded by the DH&FS according to the contract between the service provider and the Government, which specifies the target group, type of service, and the target number of clients. Clients are employed in a wide range of jobs, mainly as labourers or unskilled workers (71 per cent), clerical (12 per cent) and sales (nine per cent). Although jobs were in a range of industry types, manufacturing represented 34 per cent of jobs; 17 per cent of jobs were in personal services, hospitality and recreation industry; and 16 per cent were in wholesale and retail trade (Purdon, 1992).

Persons using the Disability Services Programme’s Employment Services, rather than the mainstream CES service, are believed more likely to receive a better service. A potential drawback of Disability Services Programmes, however, is their longer waiting lists and inability to assist all disabled people who are seeking employment, due to staffing and funding constraints. There is no entitlement to services. Issues of ‘creaming’ arise, whereby services do not select those people with high support needs who are more difficult to assist (Purdon, 1992).

Supported employment services

The second type of employment service eligible for funding under the DSA is supported employment services. The Act defines supported employment as ‘services to support the paid employment of persons with disabilities

(a) for whom competitive employment at or above the relevant award wage is unlikely; and

(b) who, because of their disabilities, need substantial ongoing support to obtain or retain paid employment’.

According to the Senate Standing Committee (1992) the aim of supported employment includes employment, integration and support. Integration is seen as a vital dimension, with emphasis on maximising contacts and relationships with non-disabled people. Continuing support for clients, perhaps on an intensive basis, is important. Support can be a permanent job coach, or may involve intermittent support, such as regular debriefings to talk about job progress and to identify problems and ways of overcoming them.

There are various approaches to supported employment.

Enclaves are small groups of disabled workers who form a production unit within a regular business or industrial setting.

Small business may have a contract from an existing industry or be a type of co-operative or cottage industry. Operations vary and more innovative activities are being developed, although the notion of profitability is retained (Roy Morgan Research Centre, 1992).

Mobile work crews undertake contract work for customers in regular work settings, often ‘service’ type jobs. Traditionally, these have been garden maintenance type operations, with a wide range of support needs. This

approach, however, means minimal integration with non-disabled persons. This type of work may be seen as part of the transition between workshops and open employment.

Individual supported jobs and on-going support in regular community based jobs can offer innovative models of employment and introduce concepts of co-workers (Roy Morgan Research Centre, 1992). Clients may have higher support needs than in other forms of supported employment and a workplace may have several clients.

Individually supported jobs and enclaves make only a small contribution to supported employment in general (Roy Morgan Research Centre, 1992). The small business model dominates the supported employment sector; this may be a matter of concern, as small businesses may provide the least 'normal' work environment. While in competitive employment award wages are generally the norm, the philosophy underlying supported employment necessarily creates a nexus between productivity and wages (Senate Standing Committee, 1992).

State governments provide direct and indirect support to supported employment services, State governments and supported employment (Senate Standing Committee, 1992). Commonwealth or State public sectors in other States (apart from Australian Capital Territories) had provided many supported employment opportunities and this is borne out by the earlier discussion of the problems encountered by the CETP services in securing employment in the public sector (Senate Standing Committee, 1992). This finding is confirmed by other discussions (Purdon, 1992).

Evaluation

The waiting lists for CETP and SE services are extremely long. The Report of the Strategic Review of Commonwealth Disability Services Programme considered service goals to be unclear and raised a particular concern about the lack of data: 'at the commencement of the Strategic Review, the dearth of data related to program planning or performance of DSP-funded services was astonishing' (Baume and Kay, 1995).

The largest occupational groups are labourers and unskilled workers, followed by clerks, salespeople and tradespeople. Men are concentrated in the labouring and trades-person groups and woman tend to be clerks and employed in sales.

Sixty-two per cent of consumers accessing services were male. Numbers accessing CETP services were 5,639, SE services 3,059, and sheltered services 26,015. In relation to client groups, 73 per cent had intellectual impairments, seven per cent psychiatric, six per cent sensory and ten per cent physical impairments. Of those in DSP-funded services, consumers of CETP received the highest average weekly wage of \$258 (for an average 30 hours). For SE this average was \$132 (for an average of 26 hours) and for sheltered employment \$49 (for an average of 32 hours). Award rates were paid to 93 per cent of CETP clients, 67 per cent of SE clients, and 19 per cent of those in sheltered employment.

Access problems are evident in that there is a lack of representation of Aboriginal and Torres Strait Islanders, people of non-English speaking backgrounds, and those living in rural and remote areas. Criticism of funding concerned the lack of renegotiation of grant levels and of consideration of whether conditions been met (Baume and Kay, 1995). A concern is that funding is not directed at the full community of disabled people and that there is no national planning for funding (Australian Law Reform Commission, 1996).

As part of the Disability Reform Package 4,000 extra programme places in supported employment were provided over three years for younger people with more severe disabilities.

Only services that offer employment and employment preparation should be funded under the Disability Services Programme. There should be an emphasis on outputs rather than process (placement, durability, satisfaction, wages, inclusion) (Baume and Kay, 1995).

A study of disabled DSS recipients found 30 per cent retained workforce aspirations, particularly those who were young and optimistic about their medical conditions improving (Jonczyk and Smith, 1990). There was a belief among recipients that capacity to return to work was largely determined by the availability of labour programme assistance. Clients had a poor knowledge of the services available, however. In addition, many felt constrained by impairments, low levels of education, and outdated skills. Employers were also said to have reservations about employing disabled people. Jonczyk and Smith (1990) conclude, 'Employment decision is complex and there is a need to educate and assist clients with disabilities to make informed choices. On the basis of this, it seems reasonable to conclude that individual assistance would make a difference to work intentions' (p.xvi).

State training provision

Within States, responsibility for training is distributed between a range of State authorities including Training Boards, Departments of Labour and/or Industry and Community Services. Many DSA services received State Government Funding. There are also examples of state apprentice training (Senate Standing Committee, 1992).

OPEN EMPLOYMENT: LEGAL OBLIGATIONS AND RIGHTS

Disability Discrimination Act

The Disability Discrimination Act (DDA) was initiated as part of then government's social justice agenda for disabled persons. Although most States and Territories have anti-discrimination legislation, the influential Ronalds Report (1990) considered that national legislation should be introduced. The subsequent DDA was passed by the Federal Parliament in October 1992 (and received assent on 5 November 1992). It is administered by the Human Rights and Equal Opportunities Commission under the direction of the Disability Discrimination Commissioner.

The Act applies to actions by the Commonwealth, State or local government, and to actions in the private sector. There are no special exemptions for firms with low numbers of employees on their books.

The Act's objectives as laid out in section 3 are:

to eliminate, as far as possible, discrimination against persons on the grounds of disability in the areas of:

- work, accommodation, education, access to premises, clubs and sport
- the provision of goods, facilities, services and land
- existing laws
- the administration of Commonwealth laws and programmes

to ensure, as far as practicable, that disabled persons have the same rights to equality before the law as the rest of the community

to promote recognition and acceptance within the community of the principle that disabled people have the same fundamental rights as the rest of the community.

The Act deals with all the areas concerning work including, recruitment (advertising, application forms and interview forms), employment, promotion, dismissal and access to premises.

All types of work category are included:

employment
 commissioned employment
 contract employment
 partnerships
 qualifying bodies
 registered organisations
 employment agencies.

Contained within the Act (as with all legislation of this type) is the requirement that the candidate be able to perform the 'inherent requirements' of the job. Similarly, with the requirement that special services or facilities be provided by employers there is the exemption clause of 'unjustifiable hardship'.. The DDA does not lay out how any particular adjustment or accommodation will constitute unjustifiable hardship. This will be decided on a case-by-case basis. The Act's provisions include discrimination involving harassment and discrimination against those who associate with disabled persons.

Certain monitoring functions are conferred on the Human Rights and Equal Opportunity Commission. For example:

- to inquire into infringements and conciliate
- to monitor standards
- to promote an understanding and acceptance of, and compliance with, the Act
research
- to offer recommendations.

There are two pathways by which a complaint may be made. First, the Act provides for the appointment of a Disability Discrimination Commissioner who is notified of potential transgression of legislation by the Commission and on whose behalf he or she will act when investigating it. Secondly, the Commissioner can investigate issues that are brought to his or her attention independently, as laid down in legislation. The Act outlines the remit as being to 'inquire into the act and endeavour, by conciliation, to effect a settlement of the matter to which the act relates' (section 71(1)).

There is an additional mechanism open to the Commissioner to achieve redress if the transgression proves difficult to rectify. According to the legislation, if the Commissioner thinks:

- (a) that a matter cannot be settled by conciliation; or
- (b) has endeavoured to settle the matter by conciliation but has not been successful; or
- (c) thinks that the matter is such that it should be referred to the Commission;

the Commissioners must refer the matter to the Commission together with a report relating to any inquiries made by the Commissioner into the matter (section 71(6)).

The Commission can have matters referred to it either by the Commissioner or by the Minister. The Commission will investigate any referred case and is able to apply penalties for non-appearance and non-production of summoned witnesses and material. Ultimately, it can institute a proceeding in the Federal Court to enforce any determination that is made.

Important points have been made about the early experience and implementation of the Disability Discrimination Act (Newell, 1995). First, the Act was a measure imposed from above, without the 'attendant up swell of well educated and skilled disability activists'. Second, the level of support services available for people making complaints is inadequate. Third, the onus is on individuals to prove discrimination, but without any significant resourcing to assist disabled people to do this. Fourth, concerns exist about whether legislation will improve attitudes towards disabled people. Fifth, DDA regulations must reflect the experiences of 'doubly' marginalised groups such as women and Aboriginal groups. An important requirement is a consumer evaluation of the effectiveness of the DDA and of the Disability Discrimination Commissioner's Office (Newell, 1995).

Over 500 complaints have been lodged under the Act with the Human Rights and Equal Opportunity Commission since the Act came into effect on 1 March 1993. There are currently more enquiries about the Act than any other Human Rights and Equal Opportunity legislation (Office of Disability, 1995). Some larger companies have developed or are considering developing Action Plans under the DDA. The majority of tertiary institutions have developed Action Plans to facilitate access and the provision of support services.. The next stage will be to get smaller employers to develop such plans.

State anti-discrimination legislation

The DDA is not intended to exclude the operation of State legislation in similar areas. Rather, the latter is seen as capable of operating consistently with the DDA. Seven States have introduced legislation relating to discrimination on the basis of disability:

- New South Wales (Anti-Discrimination Act 1977)
- Victoria (Equal Opportunity Act 1984)
- South Australia (Equal Opportunity Act 1984)
- Western Australia (Equal Opportunity Act 1984)
- Australian Capital Territory (Discrimination Act 1991)
- Queensland (Anti-Discrimination Act 1991)
- Northern Territory (Anti-Discrimination Act 1992).

The State legislation makes it unlawful to discriminate, either directly or indirectly, on the grounds of physical or intellectual impairment. These provisions extend to job applicants, employees, commission agents, contract agents, partnerships and memberships of trade unions. State legislation includes, as does Commonwealth legislation, the clause 'reasonable adjustment' or 'reasonable accommodation'.. A seeming difference is that of South Australian legislation which says that 'it is not unlawful to pay different rates of salary, wages, or other remuneration to people with physical impairment'.

At State level, complaints are lodged with State Equal Opportunity Commissioners. States can ultimately enforce their determinations, whereas the Human Rights Equal Opportunity Commission (until 1992 legislation) could not. Most complaints are settled in a conciliatory manner and very few go to tribunal.

State equal opportunity legislation

In addition to anti-discrimination law with its duty to accommodate, there are also some States and government departments that have equal opportunity legislation. Part IXA of the New South Wales Anti-Discrimination Act 1977, requires government departments and some statutory authorities to prepare and implement an equal opportunity management plan for several groups, including physically disabled people. Annual reports must also be lodged with the Director of Equal Opportunity in Public Employment. In many ways, these equal opportunity plans include what many people understand by affirmative action strategies. If the Director is dissatisfied with the plan, it may be referred to the Anti-Discrimination Board for investigation. These are virtually the same provisions as the Western Australia Equal Opportunity Act 1984. Section 15A of Victoria's Public Service Act 1974 sets out some general 'equitable treatment' principles which have to be followed in the administration of that act. Section 82 of Southern Australia's Equal Opportunity Act 1984 has a provision which permits equal employment opportunity measures to be taken for people with physical impairments.

Federal provision

There are additional pieces of legislation that offer opportunities for integrating disabled persons into the workforce. These include:

The Public Services Act 1922: Under the equal employment opportunities provisions of this act, Federal Government Departments are 'responsible for eliminating unjustifiable discrimination against disabled people'. Section 7 specifically includes people who are physically or mentally disabled in the designated groups for which equal employment opportunities programmes must be devised. However, it is justified not to make 'reasonable adjustment' when 'undue hardship' can be shown.

EEO (Commonwealth Authorities) Act 1987: this act was designated to protect the interests of certain 'designated groups' in Commonwealth statutory authorities. These statutory authorities must lodge an annual report with either the relevant Minister or with the Public Service Commission.

The Public Services Act is currently under review and the Government is committed to introducing a new, streamlined Public Service Act. It is unclear how the new Workplace Relations Act 1996 will impact on the employment of disabled people in the public sector.

PERSUASION POLICIES

The Disability Services Programme has a number of industry-based initiatives directed at the corporate sector to encourage the employment of disabled persons. These have the support of major employers and sometimes involve the placement of disabled people in jobs, and attitudinal and policy changes. These strategies employ three broad approaches:

- single company based
- across companies
- broadly based.

Single company based approaches focus on change in recruitment and employment policy with the aim of achieving direct employment outcomes for disabled people. The Special Employment Placement Officers (SEPOs) were introduced in 1992 to work with large employers to employ and place disabled people. The Commonwealth funded the salaries of placement officers employed by employers, including banks and supermarket chains.

Across companies initiatives focus on marketing and placement of disabled people. The Partnership With Industry Project (PWIP) funded disability employment services to work with large employers to place disabled people in mainstream employment. There was no new budget money available for PWIP and it was more a label for co-operation and co-ordination between government and industry. The Partnership operated until December 1995, targeting 1,000 outlets.

In 1994-95, 285 people were assisted by SEPO and 533 by PWIP (Health and Family Services, 1994-5 Annual Report). There is no further mention of these schemes in the 1995-6 annual report.

Broadly based initiatives involve industry more generally, in raising awareness of the rights and capabilities of disabled people in the labour market and also in progress in the government's transitions strategy (for example, the National Disability Project) (Office of Disability, 1995).

The Prime Minister's Employers of the Year Award is an attempt to change attitudes. The Awards began in 1990 to provide a national platform to recognise both workers with disability and their employers. Each year the Prime Minister gives awards to employers who have done the most for employment opportunities for disabled people within mainstream employment. Employers can nominate themselves or be nominated by funded open labour market services or by the Commonwealth Rehabilitation Service. The awards carry the

sponsorship of the social partners. The awards continue under the new government. The initiative has proved successful. There were 90 nominations in 1990, but 260 in 1993.

The Disability Reform Package's Marketing Programme was designed to inform individuals and organisations about the benefits of DRP. The marketing programme has contributed to more positive attitudes among employers, but these have to be viewed in the wider context of changes brought about by Disability Services Act 1986 and the Disability Discrimination Act 1992. Overall, there is believed to be some improvement in the number of employers willing to employ disabled people (Office of Disability, 1995).

There was a series of union/employer disability awareness pilots which finished at the end of 1993 (1993-94 Program Performance Statements).

OPEN EMPLOYMENT: FINANCIAL INCENTIVES

Incentives to disabled people

Supported wage system

The Supported Wage System (SWS) is a voluntary programme that was introduced in July 1994. The intention is that 1,000 individuals nationally will use the scheme each year, covering 3,000 people by 1997. The SWS is run by a management unit located in the Department of Health and Family Services which has representatives in each Territory and State. The SWS was introduced because various studies were said to show that some disabled people need a productivity-based wage system (Department of Human Services and Health, 1995). The SWS is intended to compliment the range of services provided by Disability Service Programme funded placement agencies which seek to place clients in open employment.

To be eligible, the worker has to meet the impairment criteria for the disability support pension and be assessed as unable to work for at least 30 hours a week at full award pay. The job must be covered by an award or industrial provision that makes it lawful to give pro rata award wages.

SWS uses a special wage assessment process, developed in consultation with unions and employer groups, to determine a person's productivity on the job. This process is nationally consistent and subject to Federal Government standards. The assessment system is award-based and uses the performance levels of people in equivalent positions as the benchmark for measuring the skills and productivity of disabled workers. SWS is felt to be an improvement on previous schemes that enabled people to be paid below full award wages, because the award provision is strictly controlled through the use of a national assessment system and union involvement in the wage assessment process. Assessments are by employers and a registered assessor, or an employer and a union representative.

After the wage assessment, a person previously receiving the disability support pension (DSP) will transfer to the Disability Wage Supplement (DWS). The rate of DWS depends on the wage and other income received by the person. There are simple linking rules for transferring from DWS to DSP if work ends. A person may continue to receive DWS for up to 12 months after reaching full award wages, subject to the income test (DSS, 1995).

Three-quarters of those accessing the scheme have been male, over three-quarters under 35 years of age and over three-quarters with some type of intellectual impairment. Labourers/cleaners awards have been made in 36 per cent of cases, and awards to trade assistants/factory hands in 15 per cent of cases. Average assessed productivity is 60 per cent and the number of hours worked 23, with weekly earnings at \$140. Employers are beginning to make employment decisions based on hard economic grounds (Work in Progress, 1996). A formal evaluation of the SWS will be conducted after three years of operation.

SWS also provides:

help with on-the-job training

an employer-paid wage of at least \$45 per week during the trial period. After a trial of up to 12 weeks, an assessment is conducted. Many workers would also receive the Disability Support Pension during this time

income support for those who are available for the new Disability Wage Supplement DWS

Employment Entry Payment of \$300 to help with the cost of starting work

financial assistance with the cost of any necessary workplace modifications up to \$5000

Mobility Allowance

A Mobility Allowance is available for disabled people who are in training or employment for at least eight hours per week, who are unable to use public transport unaided (and who had not bought a car and received a sales tax exemption within the last two years). Numbers using Mobility Allowance rose from 13,462 in November 1991 to 20,943 in June 1994. The allowance is \$51.50 per fortnight.

Aids and appliances

The transport provision item 135A(1) of First Schedule of the Sales Tax (Exemptions and Classifications) Act makes allowance for sales tax exemption on the purchase of a new motor vehicle for those persons that cannot use certain sorts of public transport and who are also are 'gainfully employed'.. Item 42C of this same Act provides for sales tax exemptions on goods used to modify either new or second-hand motor vehicles. Recent amendments have extended exemptions to include goods used in the modification of a vehicle solely for transporting disabled people.

Employment Entry Payment

Disability Support Pensioners who begin full-time work for at least 30 hours per week, or whose income from working exceeds the qualifying threshold amount, may be eligible for an Employment Entry Payment of \$300. The number qualifying between July 1993 and June 1994 stood at 4,129.

Support for employers

Both general and specialist wage subsidy programmes provide incentives to employers.

General wage subsidy schemes

Jobstart is the main generalist programme available to promote recruitment of long-term unemployed or other disadvantaged people. It was introduced in 1991, and expanded and reorganised in 1994 (as part of the Working Nation initiative). It provides by far the largest number of subsidised placements.

Disabled people receiving DSP and referred by a Disability Panel with an endorsed Activity Plan are immediately eligible for Jobstart, while others with disabilities and registered with the Commonwealth Employment Service are eligible after four weeks.

Subsidies for Jobstart are temporary, paid for a minimum of 13 weeks and up to 26 weeks, plus a lump-sum establishment fee of \$1,000 for people unemployed for over 18 months. The employer (public and private sector) is expected to keep the employee on for at least three months after the subsidy period. The rates of subsidy vary depending on the length of time the person has been unemployed, and are also dependent on the age and relative disadvantage of the job-seeker. For adult full-time positions they ranged in 1995-96 from

\$150 to \$325 per week. Employers must pay award (or enterprise agreement) wages and conditions, but subsidies are payable pro-rata for part-time work of at least 80 hours per month (or less for DSP recipients depending on the nature and severity of a disability). Subsidies were made available for part-time work that is in excess of 20 hours, as an attempt at introducing flexibility into the provision, but cover only a very small percentage of disabled participants.

National Training Wage is designed to place long-term unemployed people, especially school leavers, in work that includes approved training. From 1994 the programme brought together a variety of training awards. The subsidies are similar to those of Jobstart and can also include completion bonuses to employers. DEETYA's Australian Traineeship System (ATS) offers traineeships that usually run for 12 months and combine on-the-job training with formal off-the-job training offered through Technical and Further Education colleges. The participation rate of disabled people is, however, extremely low (Standing Senate Committee, 1992).

Specialist wage subsidy schemes

The *Disabled Apprentice Wage Subsidy* provides assistance to disabled people who are job-ready and who wish to gain an apprenticeship and subsequently undertake a basic trade course as part of their training. Under its provisions employers can get a wage rebate if they take on a referral from the CES of a person with a disability. This subsidy may be provided for the duration of the apprenticeship, with completion bonuses, and extra help may be granted to allow necessary workplace modifications and tutorial assistance. All employers including Commonwealth, State and local government are eligible.

Under the *Work Experience Programme for People with Disabilities* (WEPD) scheme, wages are fully reimbursed up to \$3,600 (1995-96 figures) per client referred by a Disability Panel for around 12 weeks for full-time positions or about 20 weeks for part-time positions of at least 20 hours per week. Employers can also be reimbursed up to \$2,000 per client for necessary additional costs, such as buying special equipment and making necessary adaptations.

The 1995-96 allocation for wage subsidy schemes was \$397 million for around 167,000 places, of which around 1,600 were for DSP recipients within Jobstart. It should be noted that the wage subsidy schemes are, after a transitional period, to be 'cashed out' into the new employment placement enterprise 'single funding stream', under the 1996/97 Budget plans.

In 1992, 23 per cent of all disabled clients undertaking a programme entered subsidised employment under Jobstart, increasing to 30 per cent in 1993 and 33 per cent in the first half of 1994. Among just the DRP clients (mainly people receiving DSP), the percentages for Jobstart use were a little lower but similar, while over 20 per cent were also consistently using the other subsidy scheme, WEPD. Qualitative research findings indicated that WEPD was the most highly regarded of the DEETYA programs for disabled people and appeared to lead to particularly satisfactory outcomes when used to lead on to a Jobstart placement. Thus the two schemes were linked more formally in 1994.

Grants for workplace modifications

A grant scheme, *Workplace Modification Allowance*, since 1991 has provided up to \$5,000 to private sector employers who employ disabled participants in a DEETYA programme, for the purchase, hire and lease of essential equipment or for modifying the workplace to enable disabled people to undertake employment.

SHELTERED EMPLOYMENT

Sheltered employment in Australia was originally the concern of voluntary and charitable organisations.

Gradually, through the passage of acts they began to receive direct financial assistance, the conditions for which were laid down in the 1967 Sheltered Employment (Assistance) Act. Later grants sought to provide incentives for transition. Most of the provisions were subsumed by the 1974 Handicapped Persons Assistance Act.

Under the DSA, sheltered workshops and activity therapy centres were no longer approved services for funding purposes. Competitive and supported employment services are seen as much more desirable. There was, however, a five year transition period ending in June 1992 by which service providers could make changes to their provision. After 1986 sheltered workshops were to be phased out. The former Commonwealth Government gave no new funding but recurrent funding was available if organisations could show progress. The aim was to switch to smaller open options, and for adult therapy centres to become independent living and training/ community access support services. The transition period was later extended to 1995, and then indefinitely. Most sheltered workshop employees receive a sheltered employment allowance (later the disability support pension) which usually, along with an incentive allowance, goes to the employer who pays it to the employee with the wages earned.

The merits or otherwise of sheltered employment services have been the subject of fierce discussion in recent years since the passage of the DSA. The new conservative Government elected in March 1996 has announced a number of changes that are relevant to disabled people. The most important concerns how the Government sees sheltered workshops as appropriate services for disabled people. Support services can now refer individuals to sheltered provision, unlike under the previous government which focused more on open employment options. The previous government put in place National Disability Services Standards as a tool to regulate and change the 'culture' in the sheltered workshop industry. The current government considers the standards too rigid and will seek to dilute them.

SUMMARY

In Australia legal provision for integration of disabled persons is bound up with legislative measures at both Commonwealth and State level. The provision for disabled persons in the Human Rights and Equal Opportunity Commission Act (1986) was supplemented by the Disability Discrimination Act (1992) which covers discrimination in Commonwealth, State and local government and in the private sector. It deals with all areas of work including recruitment, employment promotion, dismissal and access to premises. The Act is monitored by the Human Rights Equal Opportunity Commission. Most States have anti-discrimination acts, intended to be consistent with legislation operating at Commonwealth level. Complaints are lodged with State Equal Opportunity Commissioners and most complaints are settled in a conciliatory manner.

Legal obligations which relate to open employment include State equal opportunity legislation that aims at employment equity rather than just non-discrimination. Similar employment equity measures exist within the Federal public services (Public Services Act 1922) and Commonwealth statutory authorities (EEO Commonwealth Authorities Act 1987). The Public Services Act is currently under review and the Government is committed to introducing a new, streamlined Public Service Act.

The rise in unemployment has made it difficult for disabled people to obtain and maintain employment, particularly those without work experience. A series of major policy changes announced in the 1996-7 Federal budget is affecting the entire labour force, with likely implications for disabled persons. These reforms aim to improve services, create greater choice and allow flexibility between public, private and community sector services.

Increased attention has focused on groups that have traditionally been disadvantaged in accessing disability services: Aboriginal and Torres Strait Islander people, those from non-English speaking backgrounds, people with psychiatric disabilities, and those with high support needs

There is some controversy over definitions between organisations of disabled persons and the State and Commonwealth governments over definitions of disability. Definitions can also differ between Departments, making it difficult to determine exactly which groups of people are being referred to and whether programmes are able to meet a range of needs depending on type and level of disability. The Disability Discrimination Act takes a very broad view of disability, considering it to be: physical, intellectual, psychiatric, sensory, neurological or learning disabilities. It also includes discrimination against a person because they have some disease-causing organism (such as the AIDS virus) present in the body.

The provision of employment support services is split between two Departments, the Department of Education, Employment, Training and Youth Affairs (DEETYA) and the Department of Health and Family Services (DH&FS). The DH&FS is responsible for funding specialist employment services and is the main funder of actual employment as opposed to training programmes. DEETYA is concerned with the labour market and offers training and work experience programmes; schemes include JobTrain, JobStart, JobSearch Assistance, Special Intervention and SkillShare. Currently, less emphasis is placed on training programmes, such as JobTrain, and increasing emphasis on wage subsidy programmes, such as JobStart and Work Experience for Disabled People.

The DH&FS is the main provider of funding for actual employment, as opposed to training programmes for disabled people. The Department is responsible for the Commonwealth Rehabilitation Service (CRS) which provides rehabilitation services to disabled people, as well as dealing with the provision of specialist employment support services under the 1986 Disability Services Act (DSA). The DSA introduced the major reorganisation of specialist disability services. The act aimed to encourage innovation within the context of delivery of employment services for disabled persons and shifted the funding emphasis away from segregated sheltered employment towards Competitive Employment Training and Placement (CETP) and Supported Employment (SE) services.

CETP services provide for people who need time-limited support services in order to gain a place in the general labour market. They aim to secure jobs where the majority are non-disabled workers. Various service providers offer places - private organisations, public bodies and charitable institutions. SE services provide for those who need continuing support if they are to maintain employment. This support may be intensive.

The Disability Reform Package increased investment in financial incentives, both to employers and employees. Payments were introduced aimed at encouraging disabled people to maximise their workforce potential through rehabilitation, training and labour market programmes. The main elements of the Disability Reform Package included changes to eligibility criteria for disability support pension and increased programme and rehabilitation places, as well as better coordination between the Department of Social Security (DSS), the DEETYA and the CRS. Cross-departmental disability panels help targeted recipients of disability support pension to access programmes.

The Supported Wage System (SWS) is a voluntary programme that was introduced in July 1994. To be eligible, the DSS has to accept that the worker meets the impairment criteria for the Disability Support Pension; this includes being assessed as unable to work for at least 30 hours a week at full award pay. The job must be covered by an award or industrial provision that makes it lawful to give pro-rata award wages. SWS uses a special nationally consistent wage assessment process to determine a person's productivity on the job. SWS also provides help with on-the-job training, an employer-paid wage of at least \$45 per week during the trial period, income support for those who are available for the new Disability Wage Supplement and financial assistance with the cost of any necessary workplace modifications up to \$5000. An employment start-up payment of \$1,000 can be paid to employers who take on workers under SWS.

A Mobility Allowance is available for disabled people who are in training or employment for at least eight hours per week, who are unable to use public transport unaided.

The mainstream wage subsidy programme Jobstart provides temporary subsidies for between 13 and 26 weeks. Disabled recipients of disability support pension referred by a disability panel and disabled people registered with the CRS are eligible immediately or after four weeks. Under the Work Experience Programme for People with Disabilities, wages are fully reimbursed for 12 to 20 weeks for employment of disabled people referred by a disability panel.

The Disability Services Programme has a number of industry-based initiatives directed at the corporate sector to encourage the employment of disabled persons. The Prime Minister's *Employers of the Year Awards* provide a national platform to recognise both workers with disability and their employers.

Under the DSA, sheltered workshops and activity therapy centre were no longer approved services for funding purposes. Competitive and supported employment services are seen as much more desirable. The new conservative Government elected in March 1996 has announced a number of changes relevant to disabled people. Most important is the new view of sheltered workshops as appropriate services for disabled people. Support services can now refer individuals to sheltered provision, while the previous administration focused on open employment options.

Unemployment in Australia rose from 6.2 per cent in 1989-90 to 9.5 per cent in 1994 and in early 1997 stood at 8.7 per cent. The number of disabled Australians is estimated at about 3,176,00 (18 per cent) of the population. Just under half of the number of persons with a disability or a handicap living in households and aged between 15 and 64 years of age were in the labour force in 1993, either employed or unemployed. This compared to three-quarters of non-disabled people. ABS figures suggest that a further 123,00 people could benefit from the Disability Services Programme (of which 38,800 are unemployed; 57,700 are permanently unable to work; and 26,700 are not in the labour force).

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Consistent with the International Classification of Impairments, Disabilities and Handicaps, the Australian Bureau of Statistics defined disability as a range of impairments or restrictions likely to last more than six months, and a handicap as a disability limiting the capacity to perform tasks associated with daily living, such as self-care, mobility and verbal communication.

AUSTRIA¹

POLICY AND INSTITUTIONAL CONTEXT

Disability policy and legislation

There is no comprehensive disability legislation in Austria. Over the past 100 years several regulations in favour of disabled people have been added to Austria's long-established framework of social security. Given the division of responsibilities under constitutional law between the federal state and the nine Länder (provinces), there is no body entirely responsible for the implementation and administration of disability policies. The scattered legislation, with more than 90 different federal and provincial acts, and incoherent division of competencies have always been subject to critique and discontent (Leichsenring and Strümpel, 1995).

In a first move to improve the situation, the Federal Disability Act 1990 (Bundesbehindertengesetz) set up co-ordinating regulations and instituted a federal council incorporating the interest organisations of people with disabilities (Bundesbehindertenbeirat). It also introduced a pass for disabled people, guaranteeing privileges such as reductions of fares for public transport.

In 1993, following on from the UN Decade of Disabled People, the Austrian government presented a new

'Disability Concept'.. This statement of intent reviewed disability norms and regulations at both the federal and the provincial level. Comments were sought from the umbrella organisation of disabled people (ÖAR). The aim of the Concept was to define a new approach in disability policies, based on key ideas such as prevention and rehabilitation, integration, normalisation, independence and individualisation. In the future, all support measures should be provided with respect to the needs of the individual, rather than using criteria such as the origin of disability. The Concept stated that the legal framework had to be amended. By 1996 no major changes to the legal framework had ensued.

Article 7 of the Constitution bans discrimination on grounds of birth, gender, class and religion but not on grounds of disability. A petition with 50,000 signatures presented to Parliament in April 1995 fell foul of the end of 1995 elections. In October 1996, an all party meeting of the petition committee, with invited experts, voted to take the issue to the Constitutional Committee. That committee has the task of drafting an amendment to Article 7.

Evolution of disability employment policy

Policy for the employment of disabled people has a long history, outlined by Ernst (1990). During the monarchy in Austria in 1915 special job placement centres for invalid war veterans were founded. Their responsibilities were formulated in several of the monarchy's decrees. Based on these decrees, the first law for invalid war veterans was passed in 1920 in the Austrian republic. The Invalidenbeschäftigungsgesetz (Invalid Occupation Act) stated invalid war veterans' right to work and applied to those invalid war veterans whose ability to work was reduced by at least 45 per cent but who were otherwise fit for work. All private companies had to employ one 'invalid' for 20 employees and an additional one for every 25 employees. Those who did not comply were subject to a compensatory levy. These contributions were collected in the 'compensatory levy fund' and used for care of invalid war veterans. This law already included a clause concerning the special protection against dismissal.

This law remained after Austria was annexed by Germany. In 1940 it was extended to include people who were disabled due to accidents or other causes (so-called 'civil invalids'). In 1946 it was replaced by the Invalideneinstellungsgesetz (Invalid Employment Act), which at first only pertained to political victims, invalid war veterans and victims of accidents, but was then again extended to 'civil invalids' and blind people in 1950.

A new version of the Invalid Employment Act was passed in 1953, stating that those people with a disability with a capacity to work of at least 50 per cent were eligible for the provisions stated in the law. All employers had to employ one 'invalid' for 15 employees and one further 'invalid' for every 20 employees. There were exemptions and/or specific rules for farming, forestry and for public services. The regulations concerning the compensatory levy and compensatory levy fund remained unchanged, and special protection against dismissal was extended.

The law was renewed in 1969. It contained a clause stating that the federal government was responsible for administering the law until 1989. Also it extended the group of people for whom the federal government was responsible (some of whom had been the responsibility of the provinces up until then). Since the economic situation was positive at the time, compulsory employment was 'loosened': the quota was reduced to one invalid for 20 employees and one more for every 25 people. The administration and control over the quota scheme also were improved. The responsibility for monitoring the quota scheme and administering the compensatory levy fund was transferred from the Employment Offices to the 'Landesinvalidenämter' (Provincial Invalid Offices now 'Bundessozialämter'). From then on, only the responsibility of job placement for people with a disability and the administration of some training schemes remained with the employment offices.

In 1973 this law was amended to abolish all differences between war veterans and 'civil invalids' - from then on, the same regulations applied to all people regardless of the source of their disability. In a 1975 amendment, the quota scheme was extended to all employers, abolishing the differences in regulation concerning public and private employers. Also, the possibilities for employers to be exempted from the quota scheme were reduced.

In 1977 the Minister for Social Affairs, Weissenberg, developed a comprehensive concept concerning aspects of 'modern' rehabilitation and finding new opportunities to employ people with disabilities. In 1979 the existing law was amended to include instruments stated in this concept. The law was also extended to include young people in training. It provides for incentives for employers to employ people with disabilities, e.g. money for technical adaptation; financial aid to create jobs; and a premium for employers who employ more than the compulsory number of people with disabilities, and for small companies which are not subject to the quota scheme but which employ people with disabilities. It also makes it possible to grant wage subsidies for employees who cannot take on the full work load.

The 1979 amendment of this law also provided the basis for creating and supporting sheltered workshops. Since these new regulations entailed larger expenditures for the compensatory levy fund, the compensatory levy was raised to AS 600 per month. Nevertheless, the compensatory levy fund was spending more than it was receiving. Therefore, in 1985 a further amendment was passed which raised the compensatory levy to AS 1,500 per month and stated new rules for granting premiums.

In 1989 the 1969 law was subject to a major amendment. The competency of the federal government concerning these issues, that had been limited until 1989, was changed to apply indefinitely. The term 'invalid' was replaced with the term 'disabled' (behindert) and subsequently the law was renamed from 'Invalideneinstellungsgesetz' to 'Behinderteneinstellungsgesetz'. The term 'capacity to work' was replaced by 'level of disability'. Also regulations were introduced to improve the co-ordination between the employment service and the Landesinvalidenämter. This is basically the law which applies currently.

In the new Disability Concept of 1993 the government emphasised that disabled people should be enabled to participate in regular employment. Their integration in the open labour market is seen as preferable to employment in specialised institutions. Recommended for expansion were innovative support measures and new approaches, some of which were already in train. The Concept proposed:

- efforts to employ disabled people in private enterprises and the public administration
- initiatives to install work groups of disabled people within private enterprises
- better co-ordination of the vocational rehabilitation process, for example by standardising guidelines of the different administrative bodies
- expansion of supported employment programmes
- increasing the transition of employees from sheltered workshops to the open labour market
- support for businesses run by disabled people ('self-help firms').

new funding opportunities, progress has been made with supported employment, efforts to increase employment with private enterprises and initiatives to install work groups of disabled people in public enterprises. However, budget cuts in 1996 may have interfered with pursuit of certain goals.

Policy-making and implementation

The Federal Minister of Labour and Social Affairs (BMAS) is responsible for disability policies in general and disability employment policies in particular.

The Minister is supported and advised by the Federal Disabled Council (Bundesbehindertenbeirat) set up in 1990. The Council is chaired by the Minister. The members are: one representative from every political party

in Parliament; one representative from the Ministries of Finance, of Environment, Youth and Family and of Health and Sports; two representatives from the provincial governments; one representative of the main social insurance agency; three representatives of the employers and employees; and seven representatives of organisations of disabled people and of war victims.

The Ministry of Labour and Social Affairs takes responsibility for specific groups of disabled people including war veterans, victims of crime and registered people with disabilities (begünstigte Behinderte) with respect to the Disabled Persons Employment Act. The functions of that act - quota schemes, registration, grants for work-site adaptations, wage subsidies and so on - are administered by the Federal Offices for Social Affairs (Bundessozialämter) which are located in the capital of each province (the Bundessozialamt in Vienna is also responsible for Lower Austria and the Burgenland). Since the responsibilities of the Bundessozialämter are outlined quite clearly in the Disabled Persons Employment Act, their tasks do not vary substantially between the provinces.

Pensions and benefits are granted by the different branches of the social insurance system, such as the Pensionsversicherungsanstalten (pension insurance) and the Allgemeine Unfallversicherungsanstalt (general work injury insurance). The provincial governments pay for social assistance benefits for people who have never been in employment. The Federal Ministry of Labour and Social Affairs is responsible for war veterans and victims of accidents during army service, and victims of crime; these schemes are administered by the Bundessozialämter.

Employment services

In July 1994, the Labour Market Administration was detached from the federal administration and transformed into an autonomous body, the Labour Market Service, under the control of the Ministry for Labour and Social Affairs and the social partners. One of the main goals of the reforms was stronger integration of employers' and employees' interest groups in the decision-making structures and implementation of labour market policy. A further reform goal was expansion of active labour market policy, especially for people who are at a disadvantage on the labour market (women, older people, long-term unemployed and disabled people) (Ministry of Labour and Social Affairs, 1995). The Labour Market Service is exclusively in charge of the delivery of training, advice and placement services for groups at a disadvantage in the labour market. Disabled people are one of the target groups.

At provincial level, the activities of the employment offices vary quite substantially. On the one hand, the Labour Market Service Act leaves some leeway for the provincial employment services concerning the implementation of certain programmes. On the other hand, the provincial laws, which also concern the employment offices, mostly state which types of funding are possible for which programmes but do not specify the exact form and amount of these measures. This accounts for differences in the practice of the employment services on provincial level. In general, the differences in practice among the provinces are not only the result of the differing legal framework but also of different regional structures (rural or urban areas, larger or smaller companies). An Austrian specificity is that mountainous areas differ substantially from lowland areas in their structures.

Another important administrative body is the Ausgleichstaxfonds (Compensatory Levy Fund) which redistributes payments by employers who do not meet their quota. The Fund is administered by the Ministry of Labour and Social Affairs and assisted by a consultative committee made up of representatives of disability organisations, the provinces and employers' and employees' representatives.

In addition, the Departments of Social Affairs of the nine provincial governments are in charge of social services, institutions, housing and social support. In many cases, these services, especially training and housing facilities as well as institutional education of people with learning difficulties or mental illness, are

provided by voluntary non-profit organisations, which are reimbursed by the provincial governments and/or other bodies mentioned above.

DEFINITIONS OF DISABILITY

There is no global definition of disability in the Federal law concerning people with disabilities. However, a committee that was commissioned by the Federal Ministry of Labour and Social Affairs to conceptualise the Disability Concept developed two general definitions that provide the basis for national and provincial disability policy:

Disabled persons are persons of any age who are seriously and permanently either physically, mentally or psychically handicapped in important areas of life; these areas are principally education, employment, work, communication, housing and leisure.

Those persons who need help to sustain regular social relations, participate in working life and gain a sufficient income according to their needs.

For registration under the terms of the Disabled Persons Employment Act, a person with a disability of at least 50 per cent is considered disabled. The 'degree of disability' is determined by medical expertise. Physical impairment predominates and most people with psychiatric difficulties are excluded from the definition. Eligibility under the Act is not dependent on the individual's ability to work. However, in order to qualify for sheltered work the individual must have an output of at least 50 per cent of a non-disabled worker. The definition applies only to people of working age (men between 15 and 65, women between 15 and 60).

A further definition of disability is to be found in the legislation pertaining to labour market policy. According to the Labour Market Service Act, a person is considered disabled if his or her opportunities on the labour market are considerably reduced due to physical, psychic or mental disability. This is a more functional definition of disability which does not entail registration. Eligibility for services may vary at provincial level. For example, most provinces require a minimum of 50 per cent capacity for work for wage subsidies; however, Vorarlberg has no minimum requirement.

Under the terms of the Social Insurance Acts, a person with a working capacity of less than 50 per cent compared with the average capacity in his current or former vocation is regarded as disabled.

STATISTICS

There are three main data sources of data: the 1986 Microsensus; statistics gathered by BMAS on registered disabled people; and unemployment data.

Disabled people in the population

Given the absence of a single definition, it is difficult to be precise about the number of disabled people in the population.

The Microcensus of 1986 focused on people with physical impairments. The number of physically impaired people of all ages was estimated in that Microcensus at 1,578,00, comprising 723,000 men and 855,000 women. Of those, an estimated 483,300 were employed and 19,300 unemployed (Badelt and Österle, 1993).

There are no reliable statistics on people with a mental disability or with a psychiatric disability. At a rough

estimation, there are approximately 28,000 people with learning disabilities of working age.

Registered disabled people

On 1 January 1996, 66,087 people were registered as disabled under the terms of the Act. Table Au.1 shows the growth in numbers registered in the 1990s. It also shows the increasing proportion of women among the registered disabled. However, women are under represented compared with the labour force as a whole. As registration is closely linked to having been employed at some point, it can be concluded that disabled women are less integrated into the workforce than non-disabled women.

Table Au.2 shows the ages of registered disabled people as at 1 January 1995. Older people are over-represented, compared with employed people in general.

Official data are kept on the degree of impairment of registered disabled people. In January 1995, 40 per cent of those registered were 50 percent disabled and a similar proportion had an assessed degree of impairment of 60 or 70 per cent. People with physical impairment dominate among registered disabled people.

Data from 1994 (Leichsenring and Strümpel, 1995) show the employment status of registered disabled people. Nearly 69 per cent were in employment:

- 55.8 per cent of the total were employed in companies with more than 25 employees
- 8.7 per cent were employed in companies with less than 25 employees (not obligated to fulfil the quota)
- 4.7 per cent were self-employed.

People unemployed and receiving unemployment benefit equalled 7.7 per cent, while for 18.2 per cent the employment status was unknown, in 1992.

Registered people who count as double for the purpose of the quota are much less likely to be employed (Blumberger et al., 1996). Only 6,757 employees counted as double in 1994, when a total of 15,868

Table Au.1 Number and gender of registered disabled people, by year

Date	Total	% change from previous year	Men	% change from previous year	Women	% change from previous year
1 December 1975	48,143	-	43,170	-	4,973	-
1 January 1980	45,536	-5.42	40,459	-6.28	5,077	2.09
1 January 1985	44,697	-1.84	36,174	-10.59	8,523	67.87
1 January 1990	43,147	-3.47	30,286	-16.28	12,861	50.90
1 January 1994	58,869	36.44	39,084	29.05	19,785	53.84
1 January 1995	63,363	7.63	41,131	5.24	22,232	12.37
1 January 1996	66,087	4.30	42,911	4.33	23,176	4.25

Source: BMAS

registered disabled people were eligible for double counting. This suggests that disabled and

severely disabled older workers, who made up 84 per cent of the number in 1994, are not well represented in the workforce.

Table Au.2 Age of registered disabled people, 1 January 1995

Age at date of survey	Total	%
Under 17	132	0.21
18 up to 20	832	1.31
21 up to 25	3,488	5.51
26 up to 30	5,868	9.27
31 up to 35	7,138	11.28
36 up to 40	7,539	11.91
41 up to 45	8,380	13.24
46 up to 50	10,966	17.33
51 up to 55	13,491	21.32
56 up to 60	3,969	6.27
61 up to 65	854	1.35
66 and over	635	1.00
Total	63,292	100.00

Source: BMAS

Unemployed disabled people

Disabled people make up 15 per cent of those registered as unemployed with the Labour Market Service, totalling 32,921 in 1996 (Labour Market Service, personal communication). In 1995, the number was 30,000 (13.9 per cent) according to BMAS information.

As Table Au.3 below shows, people with physical impairments predominate in the unemployment statistics. In the 1990s not only the absolute number but also their proportion among the unemployed have grown. By 1995 their number stood at 24,300 and one in nine jobseekers was physically impaired.

Unemployment of people with learning difficulties remained fairly stable throughout the first half of the 1990s, with the number standing at 1,200. The limited integration of people with learning disabilities in the open labour market is reflected in the unemployment statistics.

At the beginning of the 1990s, the number of unemployed people with psychiatric problems rose but by 1995 had stabilised at 4,600.

People with physical impairments are also over-represented among the long-term unemployed. BMAS data show that people with physical impairments constituted 11.3 per cent of all unemployed but 17.6 per cent of the long-term unemployed in 1995.

Badelt and Österle (1993) show that unemployed disabled people are concentrated in the older age groups: 55

per cent of unemployed disabled people are 40 years and over, compared to one-third of non-disabled unemployed people.

Table Au.3 Unemployed people with physical impairments, learning disabilities and mental health problems, by year

Year	Total unemployed	With physical impairments	% of all unemployed	Learning disabilities	% of all unemployed	Mental health problems	% of all unemployed
1987	164,468	13,417	8.2	1,019	0.6	5,511	3.4
1988	158,631	13,403	8.4	974	0.6	4,742	3.0
1989	149,177	13,559	9.1	884	0.6	3,995	2.7
1990	165,795	14,875	9.0	819	0.5	3,606	2.2
1991	185,029	16,992	9.2	857	0.5	3,762	2.0
1992	193,098	18,292	9.5	937	0.5	3,813	2.0
1993	222,265	21,724	9.8	1,044	0.5	4,105	1.8
1994	214,941	22,824	10.6	1,084	0.5	4,105	1.9
1995	215,716	24,296	11.3	1,166	0.5	4,607	2.1

Source: BMAS

EMPLOYMENT SUPPORT SERVICES

There is now a tendency to try to include disabled people in mainstream programmes. The Labour Market Service offers a range of preparation, training and placement measures for disadvantaged people with specific guidance needs, including disabled people. Since 1992 a form of supported employment (Arbeitsassistentz) has been developed specifically for disabled people. Unemployed people whose unemployment is due to their disability may be advised by specialist vocational rehabilitation officers based at every regional office of the Labour Market Service. They offer counselling on choice of occupation and a range of measures to assist with entering the job market. However, whether disabled people are served in mainstream employment offices or in the special rehabilitation branches partly depends on the province.

Voluntary organisations offering guidance, training and job coaching are increasing rapidly. However, the main responsibilities still lie with the Bundessozialamt and the Labour Market Service.

Training

In Austria, the integration of children and younger adults in mainstream schooling and vocational training has only just begun. The system of Sonderschulen (specialised classes or schools) is still common. Disabled people may participate in Labour Market Service measures for disadvantaged groups with special guidance needs. Those measures fall into two types: training to acquire basic knowledge, develop independence and to learn basic skills in specific occupational fields; and training for a specific career, including a training placement.

Vocational training for disabled people is dominated by training in special institutions, both public and private. There is one large vocational training centre for people with disabilities in Linz that provides

certified training and vocational orientation for 700 people. Apart from that there are two facilities for vocational orientation.

The curricula of specialist vocational rehabilitation institutions tend to concentrate on training for jobs traditionally thought appropriate for disabled people, such as gardening. A number of smaller training centres offer non-certified training opportunities for different groups of people with disabilities, such as people with psychiatric difficulties.

Specialised training programmes also have been developed by a voluntary organisation for students with learning disabilities who learn basic skills in connection with a certain trade. They stem from the idea of establishing well-defined professions below the level of certified training (apprenticeship). The latter programmes are not acknowledged officially because of trade unions' resistance (Klicpera and Schabmann, contribution to Leichsenring and Strümpel, 1995).

As the various provinces have different types of training opportunities, it is not possible to provide a comprehensive résumé; Salzburg, for example, has special projects for people who are too advanced for occupational therapy but who cannot yet work in a sheltered workshop.

Disabled people attending a Labour Market Service training course receive a benefit. Under certain circumstances, allowances for training can be paid by the Accident Insurance or Pension Insurance. Disabled people may also train as an apprentice in a company in the open labour market. Several forms of financial support, for the employer as well as for the apprentice, are available, and the Labour Market Service can subsidise retraining courses in firms.

Shortcomings in the interface between primary school and further education and between vocational training and entrance into the labour market have been attributed to dispersed administrative responsibility, lack of facilities for continuous counselling and lack of vocational orientation (Leichsenring and Strümpel, 1995). The Disability Concept states that it is necessary to expand services for vocational orientation, for work training and certified training. It suggests that training regulations should be more flexible so as to fit the needs of people with disabilities, that transitions from training to work should be facilitated and that training programmes should be adapted to the demands of the open labour market.

Supported employment

There are 13 'supported employment' (Arbeitsassistentz) projects, with which the Labour Market Service has involvement. Projects may offer help in finding a job and placement, including support in making applications, escorting to interviews and advice on financial help; training on the job; adaptation of the work place; support in the workplace from an accompanying person for a certain period; and, where there are psychiatric problems or crises at work, mediation services.

Long-standing projects include BEBA, which is carried out by the Bundessozialamt, and the 'Modell Retz' which was initiated by the Caritas. Until now most of these projects were granted a limited amount of financial and personnel resources. Expansion of this type of service has been aided by new funding by the European Social Fund.

In the province of Vorarlberg in the most western part of Austria there are no sheltered workshops. Instead, disabled people have been integrated in mainstream enterprises by means of supported employment for many years. The provincial authorities grant wage subsidies. Psycho-social support is offered to the disabled workers as well as advice to employers. Approximately 450 people with disabilities are included in the supported employment programme in Vorarlberg.

Some supported employment schemes have been designated for people with psychiatric disabilities - a group which in recent years has been identified as a special problem group. In Upper Austria, for example, a scheme is run by 'pro mente Oberösterreich' for people with psycho-social disabilities. It receives funding from the Bundessozialamt, the Labour Market Service, the province and, from January 1995, the European Social Fund. Between September 1992 and April 1996, positive results were achieved in 68 per cent of the total 325 cases considered.

Lessons from two supported employment pilot projects for people with psychiatric difficulties have been built into practice across the country. By the end of 1997, in three provinces (Vorarlberg, Tirol and Salzburg) supported employment will be available to people with all types of impairment. In the remaining provinces, there will be at least provision for people with mental health problems.

OPEN EMPLOYMENT: LEGAL OBLIGATIONS AND RIGHTS

Austria has mandatory employment based on a quota-levy scheme. Registered disabled people have special rights of protection against dismissal. There is no protection against discrimination, although in the autumn of 1996 the Parliamentary Constitutional Committee was charged with the task of redrafting Article 7 of the Constitution to add disability as grounds for non-discrimination.

Quota scheme

The Austrian quota system is regulated by a federal law, the Disabled Persons Employment Act. It applies only to registered disabled people who fulfil the legal definition. Employers with 25 or more employees have to hire one registered disabled person for every 25 non-disabled employees. The state, provinces and municipalities are in a privileged position as 20 per cent of their employees do not need to be included in the calculation. The four per cent quota may be, and has been, changed by ordinance in certain provinces or for certain industries where the employment of disabled people is made difficult for regional or technical reasons (for example, mining, agriculture, transport, parts of the building trade, glass-making, iron and metalworking industries). In 1996, the Austrian government envisages adapting the level of the quota to international norms.

In 1994, 14,852 employers were required to fill the quota. The total number of places to be filled was 71,251.

For the purpose of calculating fulfilment of the quota, certain categories of disabled people are counted as two disabled employees. These are: blind people; wheelchair users; those aged under 19 and over 55; and people aged over 50 with at least 70 per cent incapacity. In 1995, the number of registered disabled people who may be counted as double was 15,868 (17,624 in 1994).

Employers who exceed the quota receive a bonus. In 1996 the amount of the bonus rose from AS 846 to AS 980 per month. In earlier years, this premium has been much higher: from 1986 to 1992 it stood at between AS 1,125 and AS 1,320.

The Federal Offices for Social Affairs (Bundessozialämter) responsible to the Federal Ministry of Labour and Social Affairs, monitor the fulfilment of quota. In case of default, the Bundessozialämter are responsible for collecting the legally defined compensatory levy. In 1996 the compensatory levy is AS 1,960 (AS 1,870 in 1994) per month for each disabled person the employer does not employ according to the quota system.

Fulfilment of the quota

Table Au.4 shows employers required to provide employment, the number of places and disabled people in

employment for the years 1992 to 1994.

In 1994, 59 per cent of reserved quota jobs were occupied by disabled people. Data from BMAS (using a different employer base) dating back to 1975, show that in 1975, 88 per cent of places were filled. Fulfilment was over 80 per cent in the 1970s, and at over 70 per cent until 1982. However, it fell sharply to 63 per cent in the following year, and since 1984 has fluctuated between 59 and 52 per cent.

BMAS data relating to all employers subject the quota scheme show that in 1994, 2,502 met the quota obligation and 10,928 did not. In other words, less than one employer in five met the quota. In all, 3,473 employers (including those exempt from the quota) received premiums for exceeding the quota in 1994.

There is no official information relating characteristics of employers to degree of fulfilment. A research study in Salzburg (Leichsenring et al., 1994) found most registered disabled people were working in public administration. Metal industry, trade and storage were also found in that study to employ fairly large numbers of disabled people. Secondary data analysis by Blumberger et al. (1996) found that registered disabled people were employed in higher proportions in the public and voluntary sectors.

Payment of the levy

In 1994 over 80 per cent of employers contributed to the levy fund. No detailed statistics exist about the companies paying the levy.

Badelt (1992) argues that as the levy is very low, compared with other employment costs, companies pay it almost automatically; paying the levy is the natural course of action. Results of 50 employer case-studies show that only 14 per cent saw the levy as an incentive, while 58 per cent had no opinion (Blumberger et al., 1996). A qualitative study in Salzburg (Leichsenring et al., 1994) found that for large companies paying the levy made little difference. Employers in that study felt they were fulfilling their social obligation by paying the levy but also said that it was not possible to fill the quota because of the lack of disabled people to employ.

Effectiveness of the quota

The question of whether the quota is an incentive to hire disabled people has been explored in some research studies. Badelt (1992) studied registered and non-registered people with a disability in Vorarlberg and concluded that the quota scheme was not the crucial incentive to employ people with disability, since non-registered people did not qualify for the quota scheme and were employed anyway. Blumberger et al. (1996) found that the lack of acceptance of disabled people is a hindrance to their being employed, and that it is applicants who met the requirements of a job who obtain employment, not people whose impairments might adversely affect productivity.

Table Au.4 Employers, places and disabled people in employment under the quota, 1992 to 1994

Year	No. of employers required to provide employment	Places to be provided			Disabled people in employment		
		Total	Filled	Unfilled	Total	No. counting as one	No. counting as double
1992	13,937	64,383	38,234	26,604	31,958	25,806	6,152
1993	14,149	69,369	40,030	29,339	33,607	27,291	6,316
1994	14,852	71,251	42,287	28,964	35,426	28,669	6,757

Source: BMAS

Klicpera and Innerhofer (1992) found that while civil servants and people with a disability, in Southern Tirolia, believe that the quota system helps them find jobs, only ten per cent of the people with disabilities they studied found their job because of the quota scheme. They also go on to say that those who work in the framework of the quota scheme often have jobs that do not correspond to their qualification and that many are unhappy with their vocational situation.

According to Leichsenring et al. (1994) for small companies, not paying the levy, or collecting a premium together with wage subsidies, can provide an incentive (among others) to employ disabled people.

The Compensatory Levy Fund

The revenue from the compensatory levy is gathered in the Compensatory Levy Fund (Ausgleichstaxfonds) which is used to promote the vocational integration of disabled persons. Expenditure by the Fund in 1995 totalled AS 646,065 million.

The most important measures financed by this fund are: premiums paid to employers for contracting out to sheltered workshops (15 per cent of net amount invoiced) and for employing more disabled workers than they would be obligated to (a reward that is annually regulated and amounts to not more than 50 per cent of the compensatory levy), subsidies for sheltered workshops, wage subsidies and subsidies for the adaptation of the workplace.

Protection against dismissal

Specific regulations concerning the dismissal of registered disabled people are laid down in the Disabled Persons Employment Act. Special procedural rules apply. According to these rules the dismissal of disabled persons requires the consent of the regional Behindertenausschuß (committee for the disabled) which comprises representatives of the Bundessozialamt, the Labour Market Service, employers, employees, and interest organisations of people with disabilities. The employer must submit a written application for consent, stating the reasons for dismissal.

Table Au.5 Expenditures of the Compensatory Levy Fund in million AS, 1995

Total expenditure	646,065
Individual subsidies	216,158
Premiums for employers	193,806
Sheltered workshops	152,383
Special programmes	17,526
Subsidies for interest organisations	65,392

Source: BMAS

In 1995, of 645 applications considered, 105 were approved, 63 rejected and 477 withdrawn. In effect, in 90 per cent of cases, disabled people lost their jobs, as in the withdrawn cases the employment arrangement was usually ended by consent. In 1995, 44 cases went to appeal: agreement to dismissal was given in 13 cases but in 20 cases the employment arrangement ended by consent and the appeal was withdrawn. Thus, in practice,

the regulations do not provide strict protection against dismissal.

However, commentators suggest that the regulations have counterproductive consequences for disabled jobseekers. Many employers quote them as one of the major reasons for not employing disabled people (Leichsenring et al., 1994) although permission to dismiss is in fact rarely withheld. In a case of a potential dismissal, the regulations may result in additional costs. Similarly, Blumberger et al. (1996) report that while the protection against dismissal is not a principal hindrance to employment, its imagined or actual legal consequences can be. In that study, 40 per cent of employers had clear criticisms. Objections to the dismissal regulations are currently under consideration and some relaxation of the rules is conceivable. However, a survey of registered disabled people (Blumberger et al., 1996) found that over half attached the most importance to protection against dismissal.

Disabled people's representative

The Disabled Persons Employment Act stipulates that a disabled person's representative be selected in each enterprise which has at least five registered disabled people. Substitutes should also be appointed, to stand in for the representative where necessary. Where there are at least 15 registered disabled people in an enterprise, two substitutes are appointed for each representative.

The representative is to pay attention to the occupational, social, health and cultural interests of registered disabled people, in agreement with the enterprise board. The board is obliged to assist the representative to pay attention to the particular interests of registered disabled people and to provide the necessary information.

In particular, the representative is expected to:

- ensure that the requirements of the legislation are adhered to in respect of registered disabled people;
- advise the board, employer and, where appropriate, people responsible for the protection of workers of any shortcomings, and to contribute to addressing those shortcomings;
- make proposals concerning the occupation, training and particular needs of disabled employees; and
- take part in board meetings, in an advisory capacity.

The employer is obliged to consult with the representative and to provide the information needed by the representative in order to carry out the prescribed duties.

These representatives are usually closely linked to the workers' councils, which in turn are usually closely linked to the union.

OPEN EMPLOYMENT: FINANCIAL MEASURES

Incentives for employers

Financial incentives for employers can be granted by the Federal Offices for Social Affairs (Bundessozialämter) administering the Disabled Persons Employment Act, the Labour Market Service, the provincial departments of social affairs, and, exceptionally, also by social insurance institutions. A team consisting of members of these agencies decides which benefits will be granted, the amount and the allocation of responsibility for funding.

Subsidies for training, work experience and training-on-the-job

The Labour Market Service may offer the employer subsidies towards costs concerning the education of apprentices (depending on the wages paid). Also, during a period not exceeding 12 months, full wage costs can be compensated for education, training and work experience. Other institutions, such as social insurance institutions or provincial governments, may also be designated contributors. In 1993, about AS 60.5 million was spent on the latter measures by the Labour Market Service.

The Bundessozialamt may also pay for grants for training-on-the-job or compensatory training, if these measures are not financed by the Employment Service or the provincial government.

Wage subsidies

Subsidies can be granted by the Bundessozialämter to employers of eligible, registered disabled people who could not keep their job otherwise. Usually, 50 per cent of the gross wage is subsidised, plus 30 per cent of the employer's social insurance contributions. The extent of subsidies is reduced gradually, as the worker becomes familiar with the job. This subsidy is only granted if the job is reserved for registered people with a disability for at least five years. In 1993, employers received about AS 128 million of wage subsidies for 3,646 registered employees with a disability. In 1995, the total amount was about AS 132 million.

Wage subsidies granted by the Labour Market Service are not intended as permanent subsidies. The amount varies according to the degree of productivity. They may start at 100 per cent and reduce after three or six months, stopping after one or two years. Where reduction of productivity continues to be severe, the province or Bundessozialamt may continue to subsidise the placement.

Grants for adaptation of work environment and technical support

Grants depending on the costs involved may be given by the different bodies involved, for example for the adaptation of offices, the adaptation of machines and other equipment, or the purchase of technical equipment. Budget cuts have led to a reduction of funding in this area in 1996.

Bonuses

Premiums from the Compensatory Levy Fund (Ausgleichstaxfonds) are paid to companies which have met or exceeded their quota and to companies not covered by the Disabled Persons Employment Act which employ disabled people. In 1994, these premiums amounted to AS 177 million. In 1994, 3,473 employers received premiums for exceeding the quota. Premiums also went to 5,486 employers not covered by the Act who employed registered disabled people. In that year, the premium stood at AS 846.

According to Badelt and Österle (1993) ten per cent of all registered disabled people were employed with employers falling below the quota threshold but it is hard to say whether this is due to the premium or to other factors. A study in Salzburg (Leichsenring et al., 1994) found that premiums tend to be incentives for smaller rather than larger companies.

Effectiveness

A problem concerning incentives and financial support for employers is that they are widely unknown (Klicpera and Innerhofer, 1992; Leichsenring et al., 1994). Only about 12 per cent of the employers know about existing wage subsidies, subsidies for adaptation of the workplace and so on. Some studies have concluded that for such incentives to be effective information and advice to employers are prerequisites (Leichsenring et al., 1994; Klicpera and Innerhofer, 1992).

Wage subsidies can be important in compensating for disabled people's real limits in work capacity but by

themselves may not act as an incentive to employers according to Badelt (1992). Leichsenring et al.. (1994) found that, while wage subsidies have less effect on bigger companies, for smaller companies it can be the decisive factor in employing a disabled person. Blumberger and Jungwirth (1996) have shown that - apart from some small firms - wage subsidies are not the decisive factor for employing people with disabilities. Technical aid, which some companies use more or less as 'windfall-profits' in times of technical restructuring, is not seen as an important incentive either.

Incentives for disabled people

Financial support is granted according to the Disabled Persons Employment Act by the Bundessozialamt for orthopaedic aids, education and schooling as well as for purchasing a car needed to drive to work or other subsidies to support mobility, hearing aids and technical aids for blind people. The procedure is the same as for employers. The financial source is the Compensatory Levy Fund. Selected expenditure on individuals is shown in Table Au.6.

The Labour Market Service provides financial support to unemployed persons who are disadvantaged, including disabled people, on a discretionary basis according to the Labour Market Service Act. It can support the costs of living during periods of education, training or vocational integration measures and costs of travel to job interviews. It can also subsidise the gap between first employment and first payment of wages. In 1995, 19,949 disabled people received subsidies from the Labour Market Service. In that year subsidies for disabled people totalled AS 849 million (Labour Market Service, personal communication).

Extra paid leave

Every employed person is entitled to additional leave with pay of up to six working days each year, as provided for in collective agreements and in civil service regulations.

Self-employment

Subsidies and loans are granted to people with disabilities who want to start a business of their own.

Social security incentives and disincentives

Austria has a long tradition of social policy legislation within the framework of a Bismarck type social security system (compulsory social insurance for all employees, based on contributions of employers and employees, covering the main social risks such as illness, age, unemployment and work injuries). unskilled workers are expected to take any job without regard to whether jobs are available in the labour market.

General insurance for work injuries and occupational diseases provides for pensions and gives access to complementary support such as adapted housing or cars. Invalidity benefit is granted to persons who were in employment for a certain period of time during the previous ten years and lost their ability to work due to a (chronic) illness or disability. In 1994, 417,000 people received invalidity benefits. There are also benefits for War Veterans and other specific groups. Income maintenance benefits, provided within social assistance schemes by the provinces, are designed to support those groups at risk that are not covered by the employment-based social security system.

Table Au.6 Selected expenditure (in AS million) from the Compensatory Levy Fund, 1992 to 1995

	1992	1993	1994	1995

Car subsidies	19,139	19,696	15,923	14,744
Training assistance	8,366	8,245	6,825	4,754
Transport subsidies for wheelchair users	11,936	13,183	14,026	14,604
Technical help at work	9,477	8,919	5,831	6,808
Subsidies for living expenses	2,026	2,012	1,394	1,137
Subsidies for orthopaedic help, for blind and hearing impaired	14,863	14,322	11,384	9,835
Miscellaneous assistance with mobility	1,459	1,763	1,229	2,214
Miscellaneous care provision	924	11,518	7,912	7,936

Source: BMAS

Recipients of an invalidity benefit may take up a gainful employment without losing their benefit, unless a medical report states that they are fully capable of (their original) work. Depending on the income from work and from the benefit, some of the benefit can be reduced. There are no benefits which provide incentives to work part time.

According to the Social Insurance Act, employees and skilled workers may receive a benefit if their performance is less than half of that of a non-disabled person. They are not expected to accept a job which is inferior to the one they previously held. However,

Anticipatory Old Age Pensions include disincentives to take up a gainful employment with a monthly wage of more than AS 3,288 per month (Leichsenring and Strümpel, 1995). Social assistance is usually discontinued when a person enters employment, unless the income is very low.

Furthermore, it is frequently difficult to re-qualify for benefits once a person moves out of a special scheme. For instance, if a person once leaves an occupational therapy workshop, the income maintenance benefit (paid within the social assistance scheme) is cancelled. Income maintenance then is provided by the Labour Market Service, for example for training for a certain period, but it is not possible to re-enter the occupational therapy workshop if the vocational rehabilitation process fails (Leichsenring and Strümpel, 1995).

SHELTERED EMPLOYMENT

Sheltered workshops were first established by law in 1979. Until then there were very few. Following the integration aim of the 1977 Weissenberg Concept, the ministry of Labour and Social Affairs set up a programme to establish sheltered workshops throughout

Austria to offer training and employment to those disabled people who could not (immediately) take up work in the open labour market. At October 1995, eight sheltered workshops, covering 15 units, employed 1,050 disabled people. A similar number in 1992 represented only 0.3 per cent of the labour force (Samoy and Waterplas, 1996). There are sheltered workshops in all provinces except Vorarlberg, which chose to pursue supported employment rather than sheltered work.

In addition to sheltered workshops, there are occupational workshops, established under provincial laws, for people whose low working capacity makes them ineligible for sheltered workshops. Users do not receive a real wage; they are paid according to productivity but rely on income maintenance benefits. Numbers of users are not known. (For occupational workshops see Samoy and Waterplas, 1996.)

Aims and target group

According to the Disabled Persons Employment Act, the aim of sheltered workshops is to enable disabled people to develop, improve or regain their working capacity, with a view to placement in the open labour market. They are meant mainly for those who, because of the nature or severity of their disability, cannot yet work in open employment but are capable of at least some work with a commercial value.

While the formal primary purposes are production and preparation for mainstream employment, workshops are also obliged to offer some social services which are not normally available in an ordinary working environment. These include extra days off and paid work breaks, subsidised meals, social outings and medical and social services.

To qualify for employment in a sheltered workshop, a person must meet the 50 per cent degree of disability criterion. In addition, output must match at least 50 per cent of the output of a non-disabled person in the same job. In any sheltered workshop, at least 60 per cent of the employees have to meet the two criteria and at least 80 per cent have to be disabled according to any official definition of disability.

The Disabled Persons Employment Act lays down the access procedure. A team of experts decides on admission to a sheltered workshop, according to a rehabilitation plan, and on the financing of the disabled individual. The team consists of the manager of the workshop, and representatives from the Bundessozialamt, the Labour Market Authority and the provincial government. A medical specialist and a psychologist may also be included.

Funding and organisation

Sheltered workshops are subsidised by the relevant provincial government, the Labour Market Service and, mainly, the Compensatory Levy Fund. Annual expenditure by the Fund on sheltered workshops is shown in Table Au.7.

Table Au.7 Expenditure from the Compensatory Levy Fund on sheltered workshops, by year

Year	Expenditure (AS million)
1991	121,016
1992	81,132
1993	100,554
1994	161,598
1995	152,383

Source: BMAS

The rise in 1994 is explained by unusually high investment in setting up costs (AS 63,000 million). In 1995, AS 36,000 million was invested in extension of sheltered workshops. Regular annual subsidies have risen year on year from AS 70,762 million in 1992 to AS 89,482 million in 1995 (BMAS annual statistics).

Only about 30 per cent of annual costs are covered by subsidies; the rest are earned from sales (Samoy and Waterplas, 1996). In 1993, the subsidy per disabled worker per month was about AS 13,000.

Samoy and Waterplas (1996) point out that the conditions attached to receiving subsidies from the Compensatory Levy Fund to some extent determine the organisation and functioning of the workshops. Thus, for example, wages should be in accord with collective agreements, the buildings and workforce composition must enable the workshops to function as enterprises and the workshops must run according to economic and efficiency standards.

Sheltered workshops are limited liable companies. Bodies involved in setting up these companies (Chambers of Trade and Industry, the Chamber for Workers, disability associations and private organisations) may send a representative to the supervisory board. Also represented on the board are the Ministry of Labour and Social Affairs, the Compensatory Levy Fund, the provincial government and a social insurance agency.

There are approximately 270 staff. The ratio of supervisor to disabled employee is one to twelve but in training and work trials it is one to six (Samoy and Waterplas, 1996).

Labour conditions

Sheltered workshops must provide unlimited employment contracts for those who cannot be integrated into the open labour market. Employees are paid the legal minimum wage according to the sector of activity, with full social security coverage.

Activities

Sheltered workshops produce and market their own products, and produce parts under contract. Most production is in pottery, metalwork, woodwork, textiles and assembling of electronic parts (Leichsenring and Strümpel, 1995; Samoy and Waterplas, 1996).

Employees

According to Blumberger and Jungwirth (1996) two-thirds (635) of sheltered workshop employees are men, two-fifths of the total are aged 30 and under and only eight per cent are over 50. The majority of employees (63 per cent) have physical impairments, 29 per cent learning difficulties and eight per cent a psychiatric disability. People with learning difficulties are mostly placed in occupational workshops and day centres.

Despite the requirement to have a working capacity of not less than 50 per cent, in reality one-third of employees are below this benchmark (Blumberger and Jungwirth, 1996). The potential of sheltered workshop employees in Austria has been judged to be in the top third of the 17 European union member states studied by Arnold and Larisch (1996).

Transition

The goal of transition to the open labour market, intrinsic to the Weissenberg Concept of 1977, appears not to have been met. According to a secondary source (Lindebner, 1989, cited in Samoy and Waterplas, 1996) between 1986 and 1988, only 49 disabled employees found a job in open employment. Blumberger and Jungwirth (1996) report that in 1992, 28 employees found jobs in open employment, a transition rate of 2.9 per cent. According to BMAS, about five to seven per cent advance to the open labour market each year.

A secondary source (Sinkovics, 1992, cited in Samoy and Waterplas, 1996) identified as contributory factors

the lack of financial incentive for an employee earning the minimum wage in a secure job and the loss of social services and privileges associated with sheltered work. Workshops are also reluctant to let their most productive workers move on.

The 1993 Disability Concept emphasised that integration in the open labour market is preferable to employment in special institutions. One of the expressed goals was to increase the transition of employees from sheltered workshops to the open labour market. Recent new government initiatives have aimed to increase transition. A three-month trial arrangement, whereby the person tried out work on the open market and was paid the firm's usual wage but remained a sheltered workshop employee, reportedly did not show very encouraging results (Samoy and Waterplas, 1996). Now employees from sheltered workshops may work in mainstream enterprises on a long-term basis while staying on the payroll of the sheltered workshop (Leichsenring and Strümpel, 1995).

Research has indicated that a number of workers in sheltered workshops are capable of working on the labour market but lack preparation and help from their workshops. Currently, the policy focus is on improving the level of qualification of sheltered workshop employees. Plans have included 18 month training courses for groups of selected employees (Samoy and Waterplas, 1996). A transition rate of eight to ten per cent is the ultimate objective (Samoy and Waterplas, 1996).

SUMMARY

Disability legislation is fragmented in Austria and, with the divisions between the federal state and the nine provinces, no single body is responsible for implementation of disability policies. The Federal Disability Act 1990 began to co-ordinate regulations and set up a Federal Disabled Council. The government's new 'Disability Concept' in 1993 set out a new approach, based on prevention and rehabilitation, integration, normalisation, independence and individual need (rather than on origin of impairment). Under consideration is an amendment to the Constitution to ban discrimination on grounds of disability.

Legislation for the compulsory employment of war veterans, with a compensatory levy fund, dates from 1920. From 1940 to 1950 coverage was extended to people disabled by accident and to other civil disabled groups. By the mid 1970s, the law applied to all people, regardless of the source of disability, and the quota scheme covered public and private employers of over 25 equally. The last major revision of the Disabled Person's Employment Act in 1989 replaced the term 'capacity to work' with 'level of disability' of at least 50 per cent. The Disability Concept of 1993 emphasised participation in open employment, as opposed to in specialised institutions, and recommended innovative integration measures and new forms of employment, alongside better co-ordination of the vocational rehabilitation process.

The Federal Minister of Labour and Social Affairs has general responsibility for disability policies, advised by the Federal Disabled Council which includes representatives of the social partners and disabled people's organisations as well as of government departments and political parties. The functions of the Disabled Persons Employment Act (quota, registration, grants and subsidies) are administered by offices of the Ministry located in the provinces. The Labour Market Service was reformed into an autonomous body in 1994, under the Ministry of Labour and Social Affairs, with a strengthened role for the social partners. The Labour Market Service has exclusive charge of delivery of training, advice and placement services for groups at a disadvantage in the labour market, with disabled people one of the target groups.

As a basis for the Disability Concept, it is broadly accepted that disabled persons are persons who are seriously and permanently either physically, mentally or psychically handicapped in important areas of life, principally education, employment, work, communication, housing and leisure. For registration under the Disabled Persons Employment Act, a person must have a degree of disability of at least 50 per cent

(medically determined and not dependent on ability to work); most people with psychiatric difficulties are excluded. The Labour Market Service considers someone disabled if opportunities on the labour market are considerably reduced due to physical, psychic or mental disability. However, most provinces require a minimum 50 per cent capacity for work for wage subsidies.

Numbers of registered disabled people have grown in the 1990s. Absolute numbers employed under the quota scheme have increased but the proportion of registered disabled people with jobs is falling. Disabled people make up 15 per cent of the unemployed registered with the Labour Market Service. People with physical impairment predominate among both the employed and unemployed: by 1995, one in nine jobseekers was physically impaired. The integration of people with learning disabilities is limited.

The tendency is to try to include disabled people in mainstream employment support services but vocational orientation and training for disabled people remains dominated by special institutions, and integration of children and young adults in mainstream schooling and training has just begun. The Disability Concept suggested greater flexibility in training regulations to fit people's needs, improved transitions from training to work and training adapted to the needs of the labour market. Innovative service approaches include supported employment, with expanded coverage planned for 1997.

There is a four per cent quota obligation for employers of over 25. Fulfilment has stood at between 59 and 52 per cent in the years from 1984. In 1994 it stood at 59 per cent. In 1994, less than one in five employers met the quota obligation, with over 80 per cent contributing to the levy fund. The level of levy is viewed as low, compared with other employment costs, and some companies may pay it automatically, as a tax.

Registered disabled people have special rights against dismissal in that dismissal requires special consent. Permission is rarely withheld and most cases end in the disabled person losing the job. While disabled people attach importance to the protection, employers see the regulations as a major reason for not employing disabled people. There is also provision for a disabled person's representative in enterprises employing at least five disabled workers.

Financial support to employers is available mainly under the Disabled Persons Employment Act, from the Labour Market Service and from the provinces, with decisions made by a team of agency representatives. This support includes subsidies for wages and for training and work-experience, grants for work adaptations and bonuses for meeting the quota. Provision is widely unknown, however. There is some evidence of wage subsidies affecting the hiring decisions of small firms.

Financial support to disabled people from the compensatory levy fund is directed towards transport subsidies, technical help at work and aids, as well as training and care provision. The Labour Market Service also provides discretionary financial help to unemployed disadvantaged people, including disabled people, for education, training and jobsearch costs. Employed disabled people are entitled to an extra six days annual paid leave.

Sheltered workshops were first established by law in 1979. They run as limited liable companies, with about 30 per cent of costs covered by subsidies from the compensatory levy fund. In 1995 there were eight workshops, covering 15 units, with around 1,000 disabled employees. Around two-thirds have physical impairments. Employees are paid the legal minimum wage under unlimited employment contracts. Transition to open employment has been limited to date but is one of the goals of the Disability Concept. Recent initiatives include out-working.

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BELGIUM¹

POLICY AND INSTITUTIONAL CONTEXT

Disability policy and legislation

An understanding of policy for disabled people in Belgium requires both a historical perspective and a knowledge of recent institutional reform and consequent redistribution of powers and functions.

Evolution of legislation

The first legal provision exclusively aimed at disabled people was the 1903 law on (compensation for) industrial injuries. In 1919 a scheme for the war-injured was introduced and in 1927 for the victims of occupational diseases. From 1928 onwards, means-tested allowances were given to physically disabled persons who could not earn an income on the labour market. Immediately after World War II health insurance became mandatory for all workers, with sickness and invalidity benefits as part of that system. In 1956 a special (means-tested) support fund was created which would later (1967) become the main source of funding for disabled people in institutional care and in other services.

The first general law on labour market integration for disabled people dates from 1958 but its provisions were not implemented. Largely the same provisions were introduced in the Social Rehabilitation Act of 1963. Also in the 1960s the 1928 law on allowances was reformed to include mentally handicapped persons (1969) and in 1967 the 1956 support fund was substituted with a Fund for the medical, social and educational care for disabled persons ('Fund 81' - no longer means tested). In the 1970s there were important changes in the industrial injuries and occupational diseases schemes and special education became an official part of the educational system. In 1987 the means-tested allowances for disabled people were reformed and from the 1990s onwards, the National Rehabilitation Fund, established under the 1963 act and the major instrument of social and vocational integration policy for disabled people for almost thirty years, was replaced with regional Funds. Samoy (1994) provides an overview of policies for disabled people after World War II.

Institutional reforms

Since the institutional reform of 1980, legislative and executive powers have been redistributed. There are three types of legislature:

Federal, responsible for promulgation of laws and Royal Orders

Community, for the Flemish, French and German speaking communities, responsible for decrees

Regional legislature (Flanders, Walloon region and Brussels), also responsible for promulgating decrees.

Decrees have equivalent legal force but are in force in a limited area. 'Community' is a cultural term, while 'regional' is geographical. The regions are responsible for their own socio-economic policy, including housing and employment policy (but many aspects of employment policies remain federal). The communities are competent in all matters of a cultural or personal nature and social assistance; the latter includes many, but not all, aspects of policy for disabled people. In Flanders, a single authority is competent for both community and region. In 1993 the responsibility for community affairs for the French-speaking inhabitants of Brussels was transferred from the French Community executive to a special commission in Brussels (Commission Communautaire Française de la Région de Bruxelles-Capitale).

Among the national (now termed 'federal') responsibilities transferred, in the early 1980s, to the communities under the institutional reform was the Fund for medical, social and educational care of disabled people (the 'Fund 81'). In 1991 the National Fund for Social Rehabilitation of Disabled People, the body responsible for a wide range of social and vocational integration services, was dissolved and most of its

functions were passed to community funds. An important part, medical and functional rehabilitation, became part of the federal health insurance, however.

The Flemish community decided to amalgamate the Fund 81 with the devolved National Fund for the Social Rehabilitation of Disabled People. The new fund is the 'Vlaams Fonds voor de Sociale Integratie van Personen met een Handicap' (created by a decree of 27 June 1990). The German-speaking community also chose to co-ordinate assistance to disabled people in one office (Dienststelle der Deutschsprachigen Gemeinschaft für Personen mit einer Behinderung, established by a decree of 19 June 1990), covering institutional accommodation, occupational and day centres and general guidance, as well as employment-related functions. Special education remains a separate responsibility for the communities, however. The advantage to the disabled person is having needs met through a single agency, rather than two, and having to make a single registration. Little additional information was available at the time of writing about the German fund, which serves a population of around 70,000 people.

The French fund (the 'Fonds Communautaire', established under a decree of 3 July 1991) took over only the employment-related functions - vocational guidance, vocational rehabilitation, employment and individual support; functions relating to the other (care) institutions became part of the French community administration. This fund was split into two following a decree of 22 July 1993. A Brussels fund (Fonds Bruxellois Francophone pour l'Intégration Sociale et Professionnelle des Personnes Handicapées) was accordingly established for the French-speaking inhabitants of the Brussels region (under a decree of 17 March 1994); although it functions under the same authority, this fund remains distinct from the medical, social and educational provisions in Brussels. A Walloon fund (Agence Wallonne pour l'Intégration des Personnes Handicapées) was set up for the remainder of the French-speaking territory (under a decree of 6 April 1995), and included responsibility for medical, social and educational provision. With this split, the responsibilities for these policies have been transferred from the French Community to the executive of the Walloon region and a special commission in Brussels (referred to above). The new arrangements came into effect on 1 July 1995.

To summarize, there are now (1997) four Funds: a Flemish Fund for the Dutch-speaking people living in the Flemish Region and in Brussels; a Walloon Fund for the French-speaking people living in the Walloon Region; a Brussels Fund for the French-speaking people living in Brussels; and a German Fund for the German-speaking people living in the Walloon region (there is no German region).

Disability employment policy

The Social Rehabilitation Act of 1963 formed the basis of new decrees for the Flemish, French and German speaking communities in 1990 and 1991. The Social Rehabilitation Act had set up the National Fund for the Social Rehabilitation of Disabled People with a wide range of responsibilities. The Fund was able to give direct support to individuals as well as to employers and institutions of rehabilitation and training. Daunt (1991) states that funding for the Fund derived from 'a modest premium on every single motor insurance' (p.67). Its board included representatives of disabled people's organisations and of the two sides of industry. This way of funding no longer applies to the regionalised funds.

Essentially, the measures for the integration of disabled people into the workforce instituted under the 1963 Social Rehabilitation Act (and subsequent Royal Orders) are now carried out by the four funds. Most of the procedures and measures described below were the responsibility of the National Fund until their transfer to the communities. One important exception is placement in open employment which formally is the responsibility of the Employment office, first nationally and now regionally. Although the 1963 act was mostly repealed, certain articles remain in force; for example, the funds have no powers to alter the level of financial payments to employers and employees. Policy in this respect remains a federal function. Also the

articles in the 1963 Act on compulsory employment remain in force.

Disabled people are considered one of the groups ‘at risk’ among the unemployed and are beneficiaries of (federal and regional) Ministry of Employment and Labour programmes for the creation of jobs, training initiatives and vocational integration schemes (MISEP, 1992). However, decrees within all the communities have emphasised the principle that ordinary community provision should be used wherever possible: special provision should only be used when indicated by the specific nature of the disability (MISEP, 1996). In the Walloon region, the 1995 decree (article 3) also states that ‘disabled people have the right to full participation in social and economic life, whatever the origin, nature or extent of their impairment’.

Policy-making and implementation

Competence in general employment policy is now as follows: the communities are responsible for vocational training and retraining for disabled as well as other people; placement and schemes for returning unemployed people to work fall within the competence of regions; and the federal government is responsible for social security and the right to work (MISEP, 1996). Functional rehabilitation is the responsibility of the federal Health Service.

At federal level, a Higher National Council for the Disabled (established in 1981) is concerned with disability issues within the competence of federal authorities. It can recommend legislative measures. Its 18 members are ‘specially qualified by their participation in the work of organisations concerned with the disabled or by reason of their social or scientific activities’ (WHO, 1990, p.32). There is also a Higher Flemish Council of the Handicapped and a consultative Community Council for the Disabled for the French-speaking community (both set up in 1981).

The Agence Wallonne has a management committee, advisory councils, subregional committees and a consultative council for disabled people. The administration of the Brussels fund consists of five service divisions. The Flemish fund has a management board, advisory committees and relies on independent local evaluation commissions.

Consultation with disabled people’s organisations

The Brussels fund recognises a number of associations which represent disabled people both in support for individuals and as members of organisations in which the participation of representatives of disabled people is required.

In the Walloon area, the principle of full participation is seen as entailing the need to enable associations for disabled people to defend their rights and influence policy, both at the level of government and in all sectors of society. The decree of April 1995 recognises the active role of the associations, and provides a means for their voice to be heard and for their needs to be identified. It also allows them to give their opinions on priorities, evaluate existing services, recommend changes, and inform the wider community. Four of the sixteen places on the management committee of the Agence Wallonne are reserved for associations which represent disabled people or their families. Such associations are also represented on the agency’s advisory councils. The consultative council for disabled people co-ordinates and represents all the associations for disabled people. It advises the Walloon regional council and the Walloon government, both on request and on its own initiative, about policy concerning disabled people and the means of putting such policy into effect. It also comments on the work of the Agence Wallonne. Twelve of the nineteen members of the council are appointed by the associations representing disabled people and their families.

Disabled people are represented, either directly or indirectly, in the management and consultative mechanisms of the Flemish fund and in the Flemish Advisory Council, largely in the same way and to the

same extent as in the Walloon region. There are now (1997) two disabled persons in the management committee and the two vice-presidents are representatives of disabled people's organisations.

The role of social partners

In all the Funds the social partners are involved in the management committee. In Flanders, the social partners agreed that the same level of support should be given to disabled people in both open and sheltered employment. The aim was to redress the imbalance in the overall level of funding for the two sectors by seeking further resources for people in open employment.

DEFINITIONS OF DISABILITY

Definitions for the purposes of employment of disabled people have changed with the handover of responsibility to the funds. The definition in use under the 1963 Social Rehabilitation Act was 'people whose chances for employment are effectively reduced by an insufficiency or diminution of at least 30 per cent of their physical capacities or at least 20 per cent of their mental capacities' (article 2).

The use of a percentage measure has been abandoned in each of the decrees, and all have stipulated that the services do not apply to people who submit an application after the age of 65. This later stipulation is based on a distinction between policy for disabled people and policy for senior citizens (MISEP, 1996).

The Brussels fund adopted the definition of disabled persons which had originally appeared in the decree of 3 July 1991 founding the French fund: 'persons with a significant limitation in their chances of social and vocational integration, due to a deficiency or diminution in physical and/or mental capacity'. The Agence Wallonne amended the second part of the definition to read: 'an alteration of mental, sensory or physical faculties, which requires social intervention'. The degree of disability to be taken into consideration is to be determined on the basis of a multi-disciplinary assessment (article 2 of the 1991 decree).

The definition in the decree of 27 June 1990 establishing the Flemish fund is different in three respects: the introduction of the word 'long-term' in relation to limited chances; a reference only to 'social' integration; and a listing of 'mental, psychological, physical or sensory' capacities affected (article 2(2)). A paper setting out the basic principles of the decree establishing the Flemish fund explains at some length the rationale behind the wording, with particular reference to the inclusion of adult psychiatric patients (the main reason being that some of these patients are employed in sheltered workshops). As in the case of the French fund, emphasis is placed on a multi-disciplinary assessment.

The decree in the German-speaking community defines disability as anything which affects a person's social and vocational integration owing to a reduction in mental, physical or sensory faculties (MISEP, 1996).

Although the old (1963) definition is officially no longer in use, in all but the Flemish Fund, a medical statement in the old terms (percentage of diminished capacity) is still required to profit from employment measures.

STATISTICS

In 1992 the population in Belgium was ten million. The working age population was 8.3 million and the labour force was 4.2 million, an activity rate of 50.8 per cent. In the same year the unemployment rate was 10.3 per cent (MISEP, 1996).

Disabled people in the population

A population and accommodation census carried out in 1981 and reported in Grammenos (1992) divided the non-active population aged 14 and above into seven categories. In the category 'sick and invalid' persons there were 156,400 people aged 14 to 59, representing 2.5 per cent of that age group in the Belgian population. This is almost certainly an underestimate given the other categories used: students aged 14 and over; persons looking after the household; retired people, including early retired; persons not active through personal choice; and persons not active for other reasons. There is no more recent census that provides information on disability but, when all the adults in the active age groups drawing one or other disability benefit are added up, the number reaches some eight to ten per cent of the labour force.

Disabled people: employed and unemployed

It is difficult to establish how many disabled persons are in employment and how many are unemployed. The Belgian Labour Force Survey does distinguish between short-term and long-term health problems and many disabled persons never show up in the unemployment registers. Until the mid-eighties only some 50,000 people were registered with the national employment office as 'not completely fit for work', often but not exclusively, for reasons to do with disabilities, and subdivided into those with partial ability and those with greatly reduced ability. Now (1997) this number has dropped to some 30,000, mainly because many older unemployed (over 50) are no longer represented in the statistics.

However, most disabled persons receive benefits other than employment benefits: some 180,000 (excluding elderly people) adults receive an invalidity allowance and some 70,000 (under sixty years of age) receive allowances in the residual scheme of 1987. More than 100,000 older workers, among whom one expects to find many partially disabled people, left the workforce on early retirement schemes. Furthermore, some 200,000 persons receive compensation for an industrial injury or an occupational disease (including an unknown number of retired persons). Although that compensation may be combined with earnings from work, and a lot are not severely disabled, research has proven that many end up being unemployed, but they will not necessarily show up as disabled in the unemployment statistics.

Hard data are lacking but it has been estimated that no more than 30 per cent of disabled people (aged between 20 and 60) are currently in work (Samoy, 1996)

EMPLOYMENT SUPPORT SERVICES

Specialist services

Assessment, vocational rehabilitation, vocational training and (to some extent) placement in open or sheltered employment are among the functions of the funds. Access to these services is available only to people who are registered with the fund. For the purposes of registration, people must apply to their fund and undergo assessment to meet its conditions. Once registered, an integration programme is drawn up.

People of at least 18 who missed out on school education and follow a day-time educational curriculum to prepare for the open labour market can in some circumstances get a living-allowance from the funds. This rather exceptional measure is taken when the education is considered as a professional training.

Special apprenticeship contracts are an individualised training initiated by the fund with employers who provide on the job training; the employer is not committed to taking the person on after a contract of a year duration (or extended) but employment often is the result. The name 'special apprenticeship' is no longer in use but the employer-based, on-the-job training offers the same service.

Special centres recognised by the fund include specialist guidance centres and specialist vocational training centres. There are support measures for entry or return to open employment, and for sheltered employment. In the Flemish region, and from 1997 on, the specialist guidance centres will be integrated with other services (for example, specialist training centres and sheltered workshops) in new structures for route-counselling. In the same region, reforms are due to take place in the specialist training centres. Emphasis is to be placed on 'job coaching'; support in ordinary, not segregated, environments; and a modular training system that is more responsive to the needs of disabled people.

In the French-speaking region, individual payments made by the funds to people undergoing training include an allowance in lieu of salary, and an additional subsidy. The Brussels fund sets the allowance at 40 per cent of the average minimum monthly salary, increasing to 60 per cent for disabled people with non-earning dependants. The Agence Wallonne also takes the disabled person's family situation into account when calculating the allowance, and also deducts 75 per cent of other income. In both funds, the additional subsidy is the same as for trainees undergoing occupational training (currently BF 40 per hour of training). The Flemish fund sets the allowance at the level of unemployment benefit for the head of a family and adds the same additional subsidy as in the other funds.

Table B.1 shows the numbers of people involved in training programmes between 1990 and 1995. The figures include a sharp drop in special apprenticeship contracts in the Flemish region after 1990; in the French-speaking region the figures dropped to a lesser extent but then recovered. The Flemish fund has attributed the drop to a decrease in the level of allowance. Before the change, the allowance could be higher than the minimum wage. This point is significant, given the Belgian view that the special apprenticeship contract is 'particularly successful' and leads to real employment in 71 per cent of cases (OECD, 1992, p.28). The drop in numbers also reflects the increase in training for disabled people in mainstream programmes.

Other training activities do not directly involve the funds. In the French-speaking region, an initiative by the Enterprise d'Apprentissage Professionnel (EAP) provides individual support and vocational training in its own small competitive enterprises for young people with learning difficulties. The French Community formally endorsed EAP by law in 1987 (Van Calster, 1992). Similar structures exist in Flanders. In the so-called 'social workshops', meant for training and employment of the 'hard to employ' (long-term unemployed with a low level of education), some 25 per cent of the nearly 1,000 participants are disabled persons. The funding of these workshops is still in an experimental stage, but a decree is being formatted.

Table B.1 Number of disabled people in training in fund programmes (excluding the German community)* 1990 - 1995

	1990	1991	1992	1993	1994	1995
Training in school considered as professional training	32	23	20	11	12	8
Normal apprenticeship	5	2	0	0	0	0
Special apprenticeship/on the job training	545	341	303	302	369	402
Training in a centre of the employment office	5	16	10	10	9	7
Training in a special centre	784	756	669	667	710	650
Total	1,371	1,148	1,002	1,000	1,100	1,067

NB: numbers are as at 31 December of the year in question.

* Numbers for the German community in 1990: 2 people in special apprenticeships.

Source: Samoy, compiled from the annual reports of the funds.

Mainstream services

Regional employment agencies play a key role in general employment training. In the Walloon area, for example, some disabled people undergo training in a centre that is open to the population as a whole. The numbers in the table above (category 'training in a centre of the employment office') concern only those cases where the funds finance a part of the training costs. The Flemish employment agency, for its part, organises initial training courses (of one year's duration) for long-term unemployed people; the courses are mostly organised in collaboration with private non-profit agencies. Among the thousands of participants on such courses in 1995 were 1,584 disabled people; this number represents more than five times as many as were trained in the Flemish fund's specialised training centres (Samoy, communication 1997). Other training initiatives were carried out in the Flemish region for people who are hard to employ. Most of these employment programmes are co-financed by the European Social Fund. Disabled people are thus able to benefit from measures intended for wider groups. Within the Brussels fund, there is a belief that disabled people should ideally be able to undergo training in a centre that is open to the population as a whole (Brussels fund communication, 1996).

The inclusion of disabled people in 'at risk' groups in both national and regional employment programmes has been an important change in the 1990s.

PERSUASION POLICIES

In the Flemish fund, plans are in place to publish an ethical code for employers. This is to be drawn up in conjunction with employees, employers, disabled people and representatives of services concerned with the occupational integration of disabled people.

In the Flemish region, a number of measures were being considered to encourage the employment of disabled people. In addition to the above-mentioned ethical code, these also include a code of good practice in relation to social responsibility in the employment of disabled people. Other ideas are to organise training courses for employers, members of labour organisations, decision-makers and politicians: such actions would influence employment opportunities and perceptions of disabled people. A forum is also to be created in which employers and disabled people will take forward the above actions and others. Developments in relation to route-counselling and the reorientation of the training centres will also have the effect of increasing contacts and co-operation with employers in the region.

The Agence Wallonne is undertaking a series of actions aimed at publicising its objectives and support services. These include meetings to disseminate information about financial arrangements in respect of disabled employees; a video on the integration of disabled people; a booklet which includes comments from disabled people and employers and which has been widely publicised in the press; and a book on employment and training for disabled people. The Brussels fund has produced a brochure on its role in the employment of disabled people. A video clip on disability awareness was due to be broadcast on community and regional television networks.

OPEN EMPLOYMENT: LEGAL OBLIGATIONS AND RIGHTS

There are no policies concerning preferential treatment or equal opportunities for disabled people in the private sector. Although the Act of 1963 laid down that public and private bodies must employ a certain number of disabled people, the provisions relating to the private sector have never received the necessary decree to bring them into effect.

Compulsory employment

Compulsory employment provisions for the integration of disabled people in open employment apply only to people registered with the funds. Compulsory employment does not play a significant part in Belgian policy.

Public sector

In 1972 a Royal Order established that 600 civil service posts should be reserved for people covered under the 1963 Act. The number was increased in 1977 to 1,200 and the jobs to be provided were shared out among the ministries. This arrangement was facilitated by a committee responsible for determining posts to which a disabled person could be appointed, pointing out adaptations that would suit the candidate and supervising the person in a probationary period (Council of Europe, 1990). These measures were extended in 1976 to apply to certain public bodies.

These public service bodies were required to employ a total of 90 disabled people. If not complied with, Ministries and bodies concerned are required when receiving applications to ensure that three per cent of the enlarged workforce or staff replacements are filled by disabled people (Vogel-Polsky, 1984). In 1977 and 1978 the obligation was extended to the provinces, local authorities and local public social assistance centres which had to employ one disabled person for every 55 workers. Later Royal Orders of 1984 and 1985 required the recruitment of 50 registered disabled people to the Telephones Administration and 50 to the Post Office. In 1990, the former body was authorised to recruit a further 100. Placement of a disabled person in one of these jobs is the joint responsibility of the central personnel department (or of the body in question) and the relevant regional fund.

Samoy (1995) reports that, by the end of 1992, 1,678 disabled people had been placed in the national administrations alone. This number reflects the number of placements, not the number of people at a certain point in time. He noted that there were more candidates than places, and that reductions in employment opportunities within the public sector in recent years made it unlikely that the number of jobs for disabled people would increase.

The decrees passing responsibility to the communities allow their Executives to fix the number of disabled people who should be employed by public administration and other public bodies. In the administration of the Walloon Region, 98 places have been reserved for disabled persons. In 1995 about the same number (101) were employed in the Flemish administration and another 146 in other Flemish public bodies.

After an employment conference in the early nineties, the Flemish government endorsed the principle of employment equity, as in Canadian legislation. The principle of proportional representation of 'at risk' groups (among which the disabled) was first applied to some employment programmes that receive funding from the Flemish government.. The results are not known. The Minister at that time intended to extend this measure to the private sector, but this has not happened (Samoy, communication).

Private sector

The 1963 Act (article 21) also set out measures for the compulsory employment of disabled people in industrial, commercial and agricultural undertakings, that is, not craftsmen and professionals. The Act states that employers with a workforce of at least 20 were under an obligation to employ disabled people. The executive was to lay down a quota for each sector of the economy in consultation with the competent joint

management/union body. A very limited number of Royal Orders have been issued establishing quota for some sectors. There was no follow-up on compliance and no sanctions were ever taken.

The official Belgian position has been that the private sector quota is 'inappropriate and contrary to the concept of acceptance and integration of disabled people' (EC, 1988, p.9) and that 'the coercive aspect of the obligation may create negative psychological effects for employers, work colleagues and disabled people themselves' (cited by Lheureux, 1991). The OECD Report (1992) refers to the recent conclusions of a special working group, composed of representatives of the two sides of industry and of associations of disabled people. The group is reported to have rejected the introduction of a quota system in the private sector, 'partly motivated by a general reluctance to increase statutory obligations' (OECD, 1992, p.23).

Article 21 of the 1963 Act was not repealed by the decrees setting up the new funds; however, its provisions cannot be applied without the necessary executive decree. The former French fund referred to the negative aspects which coercion could engender and to reliance on financial incentives for employers (Fonds Communautaire, 1991). The stated position of the Flemish fund is that the 'Minister responsible for the handicapped, the joint representatives and the organisations of handicapped persons wanted to promote integration by conviction and incentive' (Luyckx, 1992, p.8). The fund sees one of the roles of the public sector quota as offering an example to other employers (Flemish fund, communication).

Dismissal

In the case of dismissals, compensation is payable to employees if the reasons for dismissal are neither economic nor 'urgent reasons which prevent the continuation of the contract'.. Some protection also applies during the first six months of work incapacity, during which the labour contract is suspended and no dismissal allowed; in practice, however, this is subject to Court decisions. Moreover, when the work incapacity is of such a nature that the employee is considered to be permanently unable to continue work, the labour contract can be terminated on the grounds of 'force majeure'.

OPEN EMPLOYMENT: FINANCIAL MEASURES

Support for employers

Financial measures include wage cost subsidies, subsidies for retention of employees who become disabled and grants for modifications to the workplace.

Wage cost subsidies

The principal arrangement for compensating employers in use in Belgium is what is known as 'Collective Agreement No. 26' of 1975. This applies in the private sector only. Under this arrangement, disabled people receive a full wage but the fund compensates the employer for the difference between wage and actual performance. A time limit of one year applies, but fresh applications can be submitted if diminished performance continues. The maximum permissible payment is 50 per cent, but in most cases 30 per cent is awarded.

Table B.2 shows how the use of the Agreement has increased since 1990, continuing the trend in the 1980s; the number of subsidies exceeds the level of new grants previously given by the National Fund. It is clear, however, that in many cases payments are extended many times; figures show as many as 14 past extensions. Samoy (1995) notes that the Agreement has proved to be a successful measure despite complex administrative procedures. In the Flemish fund, modifications have been made to simplify those procedures.

In addition to Collective Agreement No. 26, there is legal provision under the 1963 Act for the funds to make

up the remuneration and social security costs of an employee while the employee adapts to the job. This measure differs from Collective Agreement No. 26 in that it is available also to the public sector. This provision is available for a maximum of one year in the Brussels area and in the German-speaking community, and for a maximum of three years in the Walloon area. In Flanders this measure was abolished from 1996 on, because of very low take-up. The Collective Agreement No. 26 arrangements are said to be more advantageous to employers.

Retention of employees who become disabled

A measure introduced in 1990 but since discontinued provided for a financial incentive for employers to retain a disabled person in work. This provision, however, applied only to firms with less than 100 employees, employees over 50 years old and a duration of less than six months. These restrictions, together with complex administrative procedures and low financial rewards (maximum BF 75,000), meant that there was no demand for the measure, as predicted by Samoy (1995).

Grants for modification of the workplace

Grants for modification of the workplace have been available since 1965. Financial aid is limited to recompense for the cost difference between standard equipment and an adapted model. The provision is little used. Seyfried cites Storm's comment that the level of use generally reveals a lack of interest on the part of Belgian firms in modifying workplaces in order to improve integration (Seyfried, 1992). In 1995, the Brussels fund approved three requests for adaptations to the workplace, amounting to BF 999,396; funding by the Agence Wallonne totalled BF 971,754 for eight cases. The Flemish fund approved 40 requests, amounting to BF 5,836,655. The grants do not cover non-physical adaptations to the work environment, such as reducing and/or adapting working-hours and breaks, redistribution of tasks, and in an exceptional case providing a co-worker. Research has shown that such adaptations are even more important than physical modification (Samoy, 1993).

Support for disabled people

Grants for work expenses

Disabled workers (registered with a fund) are entitled to grants to offset the costs of work tools or clothing required because of disability. They are also entitled to a contribution to the extra costs of personal transport to work. This latter provision was subsequently more narrowly targeted. In the French-speaking region, the applicant must be either unable to use existing transport unless accompanied by another person, or a user of a special light car, or unable to walk more than 300 metres (Ministère d'Affaires Sociales et al., 1996). These provisions appear to be very little used. In 1995, the Brussels fund approved three requests for help with tools (totalling BF 535,195). The Walloon fund approved 14 requests for tools (BF 1,553,526) and the Flemish fund 25 (BF 3,951,549).. There were no requests for clothing. Help with costs of transport to work is rather better used, although the amount the worker is entitled to claim is small - half of the extra costs incurred by reason of disability. The Brussels fund paid BF 398,569 in respect of transport costs in 1995 and the Flemish fund BF 7,060,930.

Table B.2 Number of wage subsidies, excluding the German community*, 1990-1995

	1990	1991	1992	1993	1994	1995
Under Collective Agreement No. 26 (as at 31 December)	2,847	3,022	**	3,154	3,158	3,349
Temporary wage subsidy	34	19	21	33	16	57

Total wage subsidies	2,881	3,041	**	3,187	3,174	3,046
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* Numbers for the German community in 1990: 40 people with Collective Agreement No. 26

** Not available

Source: Samoy, compiled from the annual reports of the funds.

The above are statutory measures for disabled workers in employment. Funds also have discretion to assist with purchase of clothing, aids or adaptations to help with daily living.

Combining benefits with work

For disabled and chronically ill people the administration of the health and invalidity insurance, through local offices of non-profit organisations ('mutualités'), also plays an important role in employment counselling, financing of training, and especially in stimulating return to the workplace. A system of progressive return to work allows 'invalids' to combine the insurance-based allowance with a wage for a certain time and to a certain level; in 1995 nearly 10,000 people benefited from this arrangement (Samoy, communication).

Self-employment

Those who wish to set up their own business may receive loans and loan guarantees, but little use was made of these facilities according to the EC report (EC, 1988). In fact, from 1963 to 1990 no more than two loans were ever awarded, and only in the 1960s (Samoy, communication). In the Flemish region, the measure has been abolished and grants are now available to self-employed people for modifications to their place of work.

SHELTERED EMPLOYMENT

Although a few private sheltered workshops existed in the 1950s and even received some funding, the first substantial legislation appeared with the 1963 Social Rehabilitation Act, which remained in force until it was replaced by the Community Decrees. Sheltered employment is the most important measure in terms of expenditure and number of people served (Samoy, 1995). When all the outlays for employment measures in 1995 are added up, 80 per cent (of the 9 billion BF) goes to sheltered employment and the other 20 per cent mainly to wage subsidies and vocational training (Samoy, communication).

Aims and target group

The aims of sheltered workshops are to provide opportunities for useful and remunerated work, and for occupational rehabilitation, and to offer a chance to progress to open employment if possible.

The Flemish and French decrees, despite their new definitions for eligibility to the services of the funds, retain the requirement for access to sheltered workshops: 'disabled people who, owing to the nature or severity of their handicaps are temporarily or permanently unable to engage in any occupation under normal working conditions'. Sheltered workshops have been viewed as a means of ensuring that 'the largest possible number of disabled people are gainfully employed', giving consideration to those who are incapable of holding their own in a normal firm, either temporarily or permanently (Council of Europe, 1990, p.199).

Provision and funding

The National Fund, and now the regionalised funds, gave various grants to workshops which meet various official requirements. Workshops are mainly private organisations. According to WHO (1990) those grants were, in brief:

- contribution to wages and social security charges
- contribution towards salaries of supervisory staff, under certain conditions
- contribution towards costs of adapting work places and equipment, as for the private sector
- subsidies for running costs, or to open or expand

exceptional financial assistance during economic recession.

When the National Fund was the responsible body the policy was to increase the number of sheltered jobs and workshops. However, financial difficulties experienced by the National Fund led to a royal decree being passed in 1987 to suspend the funding of new workshops. A regulation of 30 June 1992 in the French-speaking region subsequently sought to curtail the increase in numbers. A subsequent evaluation concluded that this regulation needed to be amended in order not to jeopardise the social and economic viability of the workshops. The management committee of the Agence Wallonne was then authorised to allow for some increase in numbers above those set in 1992.

Table B.3 shows that after an initial increase in the number of people attending sheltered workshops in 1991 and 1992, the numbers dropped but appear to have stabilised at a lower level. In the Flemish region, numbers were said to be diminishing due to a lack of work for people with few qualifications. Future trends (specifically mentioned by the Flemish fund) are in the direction of economic viability. In this connection, it will be important to identify new market opportunities.

Up to the end of the 1980s, wages in sheltered workshops were established by the (now dissolved) National Rehabilitation Fund for Disabled People.

Wages and other aspects of the labour relationship in workshops are now decided by a special committee composed of representatives of employers' and employees' organisations. Samoy reported in 1992 that most employees were then receiving a wage which was approximately equal to half the minimum guaranteed monthly income; and about half the employees had an output of more than 50 per cent. 1996 was initially set as the target date for the payment of the minimum wage to all workshop employees, although this target was not met. However, as from the beginning of 1997, wages have to be at least 80 per cent of the national minimum. Most of the costs of this wage rise are born by increased subsidies by the funds.

Activities

Lheureux, writing in 1991, gave a breakdown of the activities of employees at that time: around three-quarters were involved in packing. The Brussels fund and Agence Wallonne report industrial sub-contracting as the most common activity.

Labour conditions

Samoy (1995) notes that most people in workshops have a normal labour contract (a few have a training contract or a contract as a home-worker). This entitles them to all the rights of a non-disabled worker in the private sector, with the exception of the minimum wage.

Transition

The Belgian report to the OECD cites a 2.2 per cent annual rate of transfer to open employment (OECD, 1992). The EC Report (1988) reports the view of the

Table B.3 Numbers of people attending sheltered workshops, 1990-1995

	1990	1991	1992	1993	1994	1995
Flemish Fund	12,591	12,822	12,798	12,723	12,514	12,593
Agence Wallonne and Brussels Fund	7,006	7,249	7,410	7,255	7,398	7,349
Total for Belgium (excluding German community*)	19,597	20,071	20,208	19,978	19,912	19,942

Note: numbers are as at 30 September of the year in question.

* Numbers for the German community in 1990: 140.

Source: Samoy, compiled from the annual reports of the funds.

National Fund that some of the people in sheltered workshops could work in normal undertakings. Currently, transition in Flemish workshops has dropped below 1 per cent; there are no data for the other workshops (Samoy, communication).

Other forms of workshop

In the Flemish region, an (already mentioned) experimental project was established involving 'social workshops' for both disabled and non-disabled people who were 'hard to place' in employment. In 1996, these workshops employed around 1,000 workers (25 per cent disabled) and 200 staff. Plans were being considered to establish a closer link between these and sheltered workshops in the near future or, indeed, to combine the two. Similar initiatives exist in the Walloon Region and Brussels.

Unpaid work-type activities in day centres are on the increase, especially for people with learning difficulties. Some day centres are also considering the possibility of developing supported employment, also unpaid (Samoy, communication).

Employees

Sheltered employment in Belgium has been much researched and there is copious information on the characteristics of users. Samoy (1992) and Lheureux (1991) provide useful sources in English and French, respectively.

Employees are categorised A, B or C according to medical diagnoses. The categories are very detailed but, in brief, 'A' mainly refers to physical impairment; 'B' primarily to sensory impairment; and 'C' mainly to learning difficulties.. By far the largest number were in Category C: 79 per cent nationally; 82 per cent in Flanders; and 73 per cent in the other two regions. However, one should not conclude from this categorisation that people in category C are necessarily severely disabled (Samoy, 1992). Samoy reports a study carried out by his institute, HIVA, in 1987 of sheltered workshop employees in Flanders. While two-thirds of that population had learning difficulties, only three per cent of those had severely learning difficulties, with 30 per cent having moderate and 67 per cent mild learning difficulties. Samoy (1992) points out that day centres cater for proportionally more people with severe learning difficulties.

It should be noted that sheltered workshops also take a small number of people placed by the regional employment office rather than by the funds. These 'hard to place unemployed' accounted for ten per cent of employees in the HIVA study of Flemish workshops. In the same study a further ten per cent were people placed on the recommendation of the health service for 'progressive return to work after illness', notably people with 'psychological illnesses and addiction problems' (Samoy, 1992, p.56).

SUMMARY

The main instrument for the employment of disabled people in Belgium has been the Social Rehabilitation Act of 1963. Although replaced in 1990 and 1991 by decrees for all three of the communities (Flemish, French and German speaking), and decrees in 1993, 1994 and 1995 which divided responsibility to two agencies for the Walloon Region and for Brussels, that Act's provisions underpin current practice.

To a large extent employment-related services are now managed by funds which aim for social as well as vocational integration, for people of all ages (except elderly people). Disabled people register with their fund for a range of social requirements, including employment and training needs. The number of people who register is high.

Definitions for the purpose of eligibility for fund employment services have broadened with the passing of responsibilities to the communities. The use of a percentage measure of incapacity has been abandoned in the legislation, and in practice also in Flanders, but it is still in use in the rest of the country. The Brussels fund defined disabled people as: 'persons with a significant limitation in their chances of social and vocational integration, due to a deficiency or diminution in physical and/or mental capacity'.. The Agence Wallonne

amended the second part of the definition to read: ‘an alteration of mental, sensory or physical faculties, which requires social intervention’. The Flemish fund introduced the word ‘long-term’ in relation to limited chances, referred only to ‘social’ integration, and listed ‘mental, psychological, physical or sensory’ capacities affected. The German-speaking community decree refers to people whose mental, physical or sensory capacities are impaired, restricting their social or vocational integration.

Disabled people are now included in Ministry of Employment promotion programmes for groups at risk in the labour market; the contribution of the national (and now regional) employment office in placements, and more recently in training activities, is growing. Of the training options offered by the funds, special apprenticeship contracts of one year initially proved the most popular and were claimed to be successful in leading to work with employers who have provided the special instruction. Changes in the system of allowances to trainees, together with an increase in training for disabled people in mainstream programmes, appear to have contributed to a fall in the number of contracts.

There is no policy commitment to compulsory employment in the private sector. The provisions of the 1963 Act - to institute a quota for employers of at least 20 people in industrial, commercial and agricultural undertakings only - never received the necessary decrees to bring them in to force. Targets for filling public sector jobs by disabled people are low but have probably been met.

There is an array of subsidy and grant aid options for private and/or public sector employers, only one of which is taken up to any extent. That is an annual arrangement, for the private sector only, known as Collective Agreement No. 26, under which the disabled person receives a full wage but the fund compensates the employer for the difference between wage and actual performance. In 1995, 3,349 employees (excluding people in the German community) were subject to that agreement.

Grants for disabled people to help purchase tools and clothes for work are little used. Limited help with the costs of travel to work is rather better used. In Flanders the number of grants for adaptations to the workplace is limited but on the rise. Hardly any use has ever been made of loans for self-employment.

Sheltered employment is principally found in sheltered workshops. Its aims are to provide opportunities for useful and remunerated work and for occupational rehabilitation, and to offer a chance to progress to open employment if possible. Some years ago 2.2 per cent of the workforce transferred to open employment but now there is almost no transfer. Sheltered workshops are mainly private (non-profit) and currently have no structural associations with other training or employment facilities. Private initiatives directed towards sheltered work in open employment are rare. The funds control most of the access to workshops and provide grants towards wages, salaries and other costs. In 1995 there were 19,942 employees (excluding employees in the German-speaking region); in terms of the proportion of the working population, one of the highest of the EU countries. For several reasons, including policies, costs, the economic situation and the type of work available in workshops, the workforce is expected to remain stable. Most of the employees are ‘mentally’ impaired.

In 1992 the working population was 4.2 million and the unemployment rate 10.3 per cent. The number of disabled people registered with the employment office and/or with the funds is not a good measure of the number of disabled job-seekers.

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CANADA

POLICY AND INSTITUTIONAL CONTEXT

Disability policy and legislation

Canada's approach to disability issues stresses the goals of equal access, economic integration and effective participation (as outlined in the governmental *Strategy for Persons With Disabilities*, 1991). To achieve this aim, the federal authorities have sought to increase opportunities for both training and employment. A legislative approach in the form of the Charter of Human Rights and Human Rights legislation seeks to eliminate discrimination, while the use of Employment Equity provisions aims to increase employment opportunities for disabled people as well as for other disadvantaged groups within the workforce.

Canada is a highly decentralized federal state consisting of ten provinces and two territories. A third territory (Nunavut) follows the reorganization of the Northwest Territories.

Responsibility for disability policy is divided between the federal and provincial level but the theme of partnership runs through Canadian disability policy. Shifts in the balance of the relationship between federal and provincial levels are currently in progress and disability programmes and services are undergoing rapid change. Through devolution the provinces are obtaining many of the powers they need to co-ordinate labour market programmes effectively with programmes in other sectors (for example, social services and education).

The federal government recently played an important leadership role through the National Strategy for the Integration of Persons with Disabilities (NSIPD). From 1991 to 1996, the NSIPD made \$112 million in new funds available to federal departments to increase the access and participation of disabled people in federal programmes and society more generally. One of the objectives of the NSIPD was to increase the economic participation of disabled person through employment and employment-related activities, such as training. In all, \$11.8 million in new funds were committed under the NSIPD for employment and training initiatives. The NSIPD formally came to a close at the end of the fiscal year 1995-96 and was not renewed.. However, the Parliamentary Standing Committee on Human Rights and the Status of Disabled Persons, as well as the Federal Task Force on Disability Issues, have underlined the importance of the federal government continuing to play a leadership role in promoting the economic and social inclusion and equality of disabled persons. The role to be played by the federal government in the future has not yet been determined.

Disability policy in Canada, at the federal or provincial/territorial level, does not usually single out particular disabilities for individualized policy treatment. At the provincial level, however, programmes have been developed in response to the concrete needs of particular groups. Often, policy concerning those programmes is geared to persons with specific disabilities, such as the Developmental Disabilities programme in Ontario and the Residential and Training and Support Programs of British Columbia, which focus primarily on individuals with intellectual disabilities. Even at the provincial level, some disability-related policy is general in nature and targets individuals with any type of disability, such as income support programmes available through the welfare system, special needs day care, respite services and various employment programmes.

Since the early 1980s there has been a growth in the strength of the disability movement and a growing awareness of disability-related issues among the public (Young, 1992).

Labour market policy

The national employment system is in flux, with the federal government offering to negotiate new arrangements with the provinces and territories for the delivery of labour market programmes. It is intended that provinces and territories will deliver wage subsidies, income supplements, incentives for self-employment, partnerships for job creation, and possibly skills loans and grants. Provinces and territories will have the option of taking responsibility for labour market services currently delivered by the Government of Canada, including assessment, employment guidance, and local job placement services. The federal offer signals federal withdrawal from labour market training, as promised by the Prime Minister on November 27, 1995, and reiterated in the 1996 February Speech from the Throne.. Federal withdrawal will take place within three years, or sooner, if desired by the provinces.

Consistent with these developments, in December 1996 the Governments of Canada and Alberta signed a new Labour Market Development Agreement. The agreement gives Alberta responsibility for the design, management and delivery of active labour market measures including training, work experience, start-up grants for self-employment, as well as for labour market information, assessment, guidance and placement. Although not all provinces have shown interest in following Alberta's example, the agreement does mark the beginning of what is potentially an irreversible shift of responsibilities for labour market programmes from the federal to the provincial and territorial governments.

These developments in the social service and employment fields have been viewed with apprehension by the disability community. For example, there are concerns that fiscal restraints by the provinces and an absence of national standards under the funding arrangements known as Canada Health and Social Transfer, will result in disabled people lacking adequate access to the social support and employment services they require. Although disabled people are to have physical access to the new Canada-Alberta Service Centres for labour market programmes, it is not clear whether they will be a significant focus of attention in provincial labour market programmes in future. Historically, disabled people have been under-represented in such programmes. The viability of many non-profit disability organizations that have received federal funds to facilitate employment for disabled people is also uncertain. However, at the same time, the move towards decentralization of social service and labour market responsibilities brings new opportunities for provincial governments to establish better-co-ordinated policy and programmes, the lack of which in the past has presented major barriers to employment for disabled people.

There have been some criticisms voiced about the failure of government to evaluate Canada's labour market programmes, particularly programmes for disabled people (Raskin, 1995).

Changes in disability employment policy

Canada is currently undergoing important changes in terms of legislative, policy and programme frameworks for employment and disability. Until the spring of 1995 the Canada Assistance Plan (CAP) was the mechanism through which the federal government shared with the provinces the costs of welfare, special income supplements and a range of social services, including attendant services, some rehabilitation programmes and work activity programmes for persons seriously disadvantaged in the labour market. CAP-funded programming was available to those who qualified on the basis of need and was an important source of programme support for disabled persons. In April 1995, CAP was repealed and replaced by the Canada Health and Social Transfer (CHST). The CHST reduced the overall amount of federal cash transferred to the provinces and territories and imposed few standards or other requirements on the provinces. Accordingly, the CHST gives the provinces much greater freedom than CAP to design their own social programmes without federal intervention. The CHST also combines into single, virtually unconditional programmes the separate, previously targeted, federal transfers to the provinces and territories for post-secondary education and health programmes.

Until recently, federal training allowances and a range of other supports for employment had been authorized by the National Training Act and the Unemployment Insurance Act. These acts were repealed in June 1996 and replaced by the Employment Insurance Act. Key aims of the Act are to reduce dependency on passive income support, to promote employment and re-employment, to strengthen federal-provincial partnerships, increase programme flexibility, increase responsiveness to local priorities, and reduce public expenditure. Disabled persons have not been made an explicit focus of attention under the new act. However, they do qualify for services according to its eligibility provisions which generally target unemployed individuals with a recent attachment to employment and who qualify for Employment Insurance.

The trend in recent years has been towards integrating disabled persons in the mainstream of both vocational training and employment services (Raskin, 1995).

Policy-making and implementation

Constitutional responsibilities for health, post-secondary education and social services lie with the provinces and territories. However, the federal government has historically played an important role in supplementing provincial/territorial revenues for such programmes through equalisation payments, conditional cost-sharing, unconditional grants and targeted block transfers.

The federal government has constitutional responsibility for trade and commerce and has played an important role in national labour market policy and programme delivery. The newly constituted department of Human Resources Development Canada (previously Employment and Immigration Canada and selected units from the now disbanded Health and Welfare Canada) carries major responsibilities for labour market programmes.

The provinces have maintained their own labour market services, which tend to be most highly developed in the richer provinces. At the provincial level, labour market programmes fall under departments responsible for labour, advanced education and training, social services, rehabilitation, health, and welfare. There is wide variation in programmes from province to province, and also in terms of the emphasis placed on the employment of disabled persons.

Programmes delivered by Provincial Workers' Compensation Boards, which again vary from province to province, also play a key role in the disability pension, health and rehabilitation services fields for workers who become disabled through injuries on the job.

Organisations of disabled people

The policy process on disability issues operates on several levels in Canada. Since 1980 there has been a

Committee of Parliament on Human Rights and the Status of Disabled Persons which consults the community regularly. This arrangement has been an important vehicle for enabling the concerns and ideas of disabled people within Canada to come to the direct attention of the federal government. This Committee is one of the rare parliamentary committees which has been able to develop unanimous reports to Parliament, regardless of the party in power or the parties in opposition. The Committee has devoted significant attention to employment issues.

In addition to making regular presentations to the Parliamentary Committee on Human Rights and the Status of Persons with a Disability, organisations of disabled people have made presentations and held informal discussions with various Parliamentary Committees including Human Rights, Employment, Finance, and Human Resources. Federal departments have also hired persons knowledgeable about disability issues to work on policy development. Final responsibility for policy development, however, rests with the departments.

Similarly, while responsibility for provincial policy rests with provincial and territorial ministries, consultations occur through committees, one-on-one meetings between organizations and policy-makers, as well as through quasi-governmental councils established in most provinces to provide input from the disability community to provincial governments.

Historically, individuals and organizations have been less well-organized at the local than at the provincial and national levels in terms of the policy process. Even at the national and provincial levels, progress in terms of policy development and the adoption of policy options advocated by the disability community has been slow. Power and responsibilities for policy and decision making are quickly shifting from the national and provincial to the local and regional levels. There is some concern about the rapidly diminishing scope and powers available to the federal government to exercise leadership and invoke a national approach to disability issues.

DEFINITIONS OF DISABILITY

The federal Employment Equity Act stipulates that a person will be considered disabled for the purpose of the Act if their prospects of employment are substantially reduced as a result of an ongoing or recurring physical, mental, sensory, psychiatric or learning impairment and if they consider themselves, or who believe a potential employer would consider them, disadvantaged in employment because of their impairment. The Act relies on self-reporting rather than formal assessment of disability status. The Act includes individuals whose disabilities are completely or partially accommodated in their current job or workplace.

The Canadian Human Rights Act adopts a broader approach to defining disability, including within its scope any previous mental or physical disability, as well as disfigurement and dependence (past or previous) on drugs or alcohol.

Definitions of disability vary significantly between programmes in Canada. Some programmes require that an individual seeking access to services on the basis of disability has a loss of physical, sensory, intellectual or psychological functioning so severe that he or she is unemployable or has very limited employment potential. Some individuals may only qualify for a disability-related support by removing themselves from the labour force. Employment-related programmes may require that individuals be severely disadvantaged in employment in order to qualify for services relevant to disabled persons.

STATISTICS

Two major data sources are available on disability in Canada. Statistics Canada's Health and Activity

Limitation Survey (HALS) was conducted after the census of 1986 and 1991. It used a combination of a general census question and variations of the WHO 'activities of daily living' indicators to screen survey respondents for disability. HALS explores a wide range of social and economic issues. The National Population Health Survey (NPHS), which is an ongoing population health survey, used a general probe on activity limitations arising from a long-term health condition or disability. The NPHS focuses primarily on health indicators, but includes some socio-economic information of a general nature, such as family income, and information specific to labour market activity such as the number of jobs held in past twelve months. The most recent NPHS data available at the time this report was prepared were for 1994. This chapter also draws upon raw survey data.

According to HALS, disabled people made up 12.7 per cent of the (non-institutionalized) working age population in 1991, up from 10.4 per cent in 1986. This amounted to 2.3 million persons. Table C.1 provides a breakdown of the working age population in Canada by specific type of disability.

Employment position of disabled people

Among non-disabled persons people aged 15 to 64, 73 per cent were employed in 1991. Another 7.9 per cent were unemployed, while 19.1 per cent were not in the labour force. Among disabled persons, only 48.2 per cent were employed, 8.1 per cent were unemployed and 43.7 per cent were not in the labour force in 1991.

According to the NPHS, 17.3 per cent (3.6 million) of the working age population in Canada had restricted activities due to an ongoing health condition or disability in 1994 (3.6 million). For those who did not report an activity restriction, 72.1 per cent were employed, 9.5 per cent were not working but had been employed in the previous year, and 18.4 per cent were not in the labour force. For those with activity restrictions, the figures were 53.2, 8.5 and 38.3 per cent respectively.

Table C.1 Percentage of working age population in Canada (non-institutionalized) with specific disabilities*

Mobility	6.6
Agility	6.4
Hearing	3.1
Speaking	1.0
Seeing	1.2
Other (including cognitive and psychological)	4.4
Unspecified	1.1
Several	6.7

* Some respondents reported more than one kind of disability.

Source: *Health and Activity Limitation Survey 1991, Statistics Canada.*

Although HALS and the NPHS produce different estimates of the total number of people in Canada with activity limitations arising from disability or long-term health conditions, both surveys confirm that disabled persons have much lower employment levels than the rest of the population and are much more likely to have dropped entirely out of the active labour market.

Table C.2 shows the labour force status of all working age persons who were surveyed for the 1991 HALS and the 1994 NPHS, by age and disability status. Both surveys show that employment falls considerably among older persons, particularly where individuals are disabled.

Consideration of the unemployment rate provides a different perspective. The unemployment rate is defined as the share of the active workforce not currently employed. The active workforce includes those presently working, actively looking for work or with definite arrangements to work in the near future, that is 'unemployed'. On the basis of HALS, an unemployment rate of 9.8 per cent can be calculated for non-disabled persons in 1991. For disabled persons the rate was 14.4 per cent. HALS shows a very high

Table C.2 Employment status of disabled and non-disabled working age Canadians, by age (in percentages)

Age	% Employed	% Unemployed	% Not in labour force
A. Non-disabled persons			
15 - 34	70.1	9.8	20.2
35 - 54	81.6	6.2	12.2
55 - 64	55.1	5.7	38.2
Disabled persons			
15 - 34	54.1	12.3	33.6
35 - 54	57.0	7.6	35.4
55 - 64	27.9	4.4	67.8
B. Persons without activity restrictions			
15 - 34	68.5	12.8	18.7
35 - 54	81.4	6.4	12.1
55 - 64	50.7	7.7	41.7
Persons with activity restrictions			
15 - 34	58.9	13.3	27.8
35 - 54	60.5	7.3	32.3
55 - 64	28.6	3.8	67.6

A. Source: Health and Activity Limitation Survey 1991, Statistics Canada.

B. Source: National Population Health Survey 1994

unemployment rate for young adults with disabilities (those aged between 15 and 34 years old) at 18.5 per cent, compared with 12.3 per cent for their non-disabled counterparts.

Severity of disability does not account for why disabled people are under-represented in the labour market. Representation of disabled people also varies with age, geography, and type of disability (Roehrer Institute, 1993). Employment levels for disabled people are between 35 and 38 per cent depending on specific disability. The employment level for people with hearing impairments is far higher, at 56 per cent, according

to HALS 1991).

Impairment by itself does not indicate work-related limitations. Table C.3 shows the proportion of the working age disabled persons in Canada who require various disability-related supports in order to work. Generally speaking, the level of employment among persons requiring support is low (29 per cent). By far the most widely needed supports for employment are job redesign, such as modified or different duties, and modified hours or days of work. Two-thirds of people who are working and who need such supports indicate that these measures have been made available to them. Nearly 70 per cent of disabled persons do not require extensive job accommodations in order to work. Among these people, the level of employment is relatively high (56.9 per cent). However, the availability of support to those needing it falls considerably short of the scope of actual need, although the most widely needed supports are not cash-intensive.

Table C.3 Employment support requirements of working age disabled persons, showing per cent employed by type of support, and availability of support to those working who need support

Kinds of support required*	% of working age disabled persons who require support	% needing support who are employed	% of employed persons needing support who have the required support available
No support required	68.8	56.8	-
One or more supports needed	31.2	29.0	-
Human support	3.4	27.0	53.4
Technical aids/devices	1.8	42.6	41.2
Communication services	1.5	35.4	11.0
Job redesign	16.9	25.7	64.5
Modified hours/days	17.3	22.5	64.1
Accessible transportation	6.9	19.3	50.2
Other non-architectural	3.6	41.4	51.2
Handrails, ramps	4.8	20.1	71.9
Appropriate parking	5.1	20.8	68.0
Accessible elevator	6.0	17.0	66.6
Accessible workstation	5.4	17.9	68.8
Accessible washrooms	4.5	19.6	73.8
Other architectural	1.4	39.0	49.8

* Some respondents indicated the need for more than one type of support.

Source: Health and Activity Limitation Survey 1991, Statistics Canada.

EMPLOYMENT SUPPORT SERVICES

Human Resources Development Canada (HRDC) administers federal employment-related programmes. Human Resource Centres of Canada (previously Canada Employment Centres) are the local offices responsible for programme delivery. The new Employment Insurance Act has meant that these employment services have undergone a fundamental reorganization. The Labour Force Development Strategy (LFDS), heir to the previous Canadian Job Strategy and its multiple programme components, has been simplified and consolidated.

Training

Federal government through the Vocational Rehabilitation of Disabled Persons (VRDP) Act has shared the provincial and territorial costs of a range of employment-related supports, technical aids and devices, sheltered work and other programmes geared to facilitating the training and gainful employment of disabled people. The VRDP was extended to the end of fiscal year 1996-97, its future being uncertain beyond that point. However, a recent Federal Task Force on Disability Issues recommended that the programme be re-focused to foster a more individualized approach to vocational rehabilitation, as well as targeting research, innovations, demonstration projects and public awareness initiatives to increase the employment of disabled people in the competitive workforce. The Task Force recommended that the new programme be funded at the VRDP's current level (Federal Task Force on Disability Issues, 1996).

Rehabilitation services are funded through provincial and territorial health organisations, CAP, VRDP, workers compensation, and public/private insurance plans. These are concentrated in large urban areas.

Until recently, HRDC (through the LFDS) had purchased training courses and programmes for unemployed clients from community colleges, private training institutions and other local organizations. The LFDS was intended to promote and increase partnerships and was organised under four key programme areas; Special Initiatives, Employability Improvement, Labour Market Adjustment, and Community Development. HRDC has begun to phase out the purchase of training, but may provide grants and loans to help offset training costs to individuals in some provinces/territories. What effect these arrangements will have on disabled people is unclear. On the one hand, it is known that HRDC-funded project-based training initiatives, such as classroom training integrated with on-the-job experience, were particularly successful in increasing the employment of disabled persons in the past (Human Resources Development Canada, undated). However, the costs of participation were a major impediment. Cost could continue to present problems, especially if the provinces/territories decide not to make training loans and grants available.

Traditionally there have been restrictive criteria in place for individuals seeking to access education and training programmes (Roehrer Institute, 1993). As suggested earlier, individuals might not be seen as employable, and there are also problems of low basic literacy levels, the style and duration of training, and low transfer to employment after training is completed. The participation of disabled people within federal employment programmes has been very low (Halliday, 1990). Only 1,110 disabled people received HRDC Employment Services Interventions (HRDC, 1995). Numbers of those in full time employment or further training three months after receiving federal programmes and who used skills acquired through Employment programmes were also very low.

According to HALS 1991, 784,000 working age disabled people in Canada said they had taken part in work-related training courses at some point in life to enhance their work skills or to learn new skills. Of these

people, 59.5 per cent were working. Of the 1,513,000 others who had not received training, only 42.3 per cent were working. Some 299,000 of the latter group of people said they had wanted to take training but were prevented. The main reasons given for not taking training were the high cost of training (30.5 per cent) and inaccessible training sites (28.3 per cent), followed by the location of training (18.6 per cent said it was too distant or inconvenient), courses that were not relevant (16 per cent), inadequate transportation (11.5 per cent) and lack of child care (6.4 per cent).

Other support measures include:

Employment Assistance Services that are provided by local community organizations to facilitate access to labour market information, advice, Action Planning and other employment services;
Local Labour Market Partnerships consisting of local employers, community organizations, employee associations and government agencies that join together to create new employment opportunities for people seeking work.

In addition, HRDC provides self-service kiosks, computer workstations and Internet web-sites that provide access to a Job Bank of available employment opportunities, and the Electronic Labour Exchange which includes information about employers and job-seekers looking to match available skills with employment opportunities.

Rehabilitation

Workers who become disabled, whether from occupational injuries or other causes, have access to the Canada Pension Plan (CPP) disability benefit provided that they have paid into the plan for a minimum of two of the past three years or five of the past ten years. This contributory programme makes modest pensions available to individuals with severe and long-term disabilities. The disability pension has come under scrutiny of late owing to the growing caseload and the unfunded future liability of the Canada Pension Plan, for which the disability pension has been identified as partly responsible.

Moreover, it was found that the eligibility criteria for the CPP disability programme and other factors discouraged some individuals who perhaps could find re-employment from looking for work. The Canada Pension Plan National Vocational Rehabilitation Project was designed to break down some of the employment, education and training barriers faced by CPP disability benefit recipients. The programme covers payments for assessments, counselling, training and other rehabilitation expenses, such as tuition and books for those who qualify, and allows for continued payment of the disability benefit during a transition to secure employment.

Supported employment

The trend towards mainstream provision for disabled persons has fostered supported employment models where an individual receives vocational training after being placed on-the-job (Raskin, 1995). Supported employment has been widely used in Canada to support individuals to move from segregated work activities to regular employment in the competitive labour market. The approach usually involves a support worker or 'job coach' from a social service agency, who provides individualised assistance and mentoring. Typically, the job coach gradually withdraws from the workplace as the worker becomes proficient in job tasks and as co-workers become comfortable providing the informal support that may be needed from time to time.

This model has proven a useful, though sometimes costly, approach to promoting employment. It has had limited success in facilitating the substantive integration of disabled persons in the regular workforce. People most likely to be included in such initiatives are individuals with comparatively mild levels of disability.

There appears, however, to be little up-to-date evaluation of the model. Raskin (1995) cites a 1989 study by the Canadian Council of Rehabilitation and Work as still the most comprehensive available.

OPEN EMPLOYMENT: LEGAL OBLIGATIONS AND RIGHTS

A number of acts at the federal and provincial levels aim to integrate disabled persons into the labour force. These are described below, along with the institutions and procedures that are used to implement them. It should be noted that certain provinces introduced human rights codes that specifically included disabled people in advance of federal legislation.

Charter of Rights and Freedoms

Canada's Charter of Rights and Freedoms is part of the national Constitution. It guarantees equality before and under the law, and equal protection and benefit of the law, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability (Section 15). This section shares the core objectives of human rights legislation, namely securing equality of opportunity for discrete and insular minorities in Canada, through their protection from discriminatory treatment and practices.

The Charter is the highest law of the land; all other laws must be framed and interpreted to be consistent with its provisions, including provincial human rights laws (Molloy, 1992). The Government also acts as an employer and for its employees the Charter provides for freedom from discrimination on the basis of disability, which includes a duty to accommodate short of undue hardship.

The Charter has been an important instrument in the formulation of a human rights approach to disability in Canada. Traditionally, disability has been seen as a charity issue which calls for benevolent responses. The human rights approach insists that all persons, regardless of ability or other differences, are entitled to the full rights and privileges of citizenship, even though they may require different treatment and conditions, including modifications of the school or work environment, in order to exercise those rights. From this perspective, public and private institutions have not only the privilege of responding to the claims of disabled persons and other marginalized groups, but also have positive obligations to ensure that the conditions are in place for the exercise of rights.

Human rights legislation and commissions

At both the federal and provincial/territorial levels, human rights codes explicitly prohibit discrimination in employment on the basis of disability. Private sector employers and the federal and provincial/territorial governments can also implement affirmative action or employment equity programmes to increase the employment of disabled persons without contravening the human rights codes. If employers want to make changes for disabled workers then they apply to the Human Rights Commission for approval of their plans.

The Human Rights Commission enforces the Canadian Human Rights Act (1977). The Commission operates at arm's length from Government. In relation to the Human Rights Act, it deals with individual complaints of discrimination and promotes awareness of the principles underlying human rights legislation. The Act prohibits discrimination on 11 grounds including that of disability: 'For all purposes of this Act, race, national or ethnic origin, colour, religion, age, sex, marital status, family status, disability and conviction for which a pardon has been granted are prohibited grounds of discrimination' (section 3).

Disability was added to the Act in 1985. Under the terms of the Act 'disability' means any previous or

existing mental or physical disability, and includes disfigurement and previous or existing dependence on alcohol or drugs.

The Act makes it illegal to refuse to employ or continue to employ any individual, or, in the course of employment, to differentiate adversely in relation to an employee (section 7). The terms of the Act also apply to employment applications, advertisements, employee organizations and equal wages.

The Canadian Human Rights Commission receives and responds to complaints of discrimination in employment on a case-by-case basis. In this regard, it functions in much the same way as provincial commissions. However, the federal Commission can also act more proactively through its new compliance enforcement mandate under the Employment Equity Act. This mandate enables the Commission to ascertain, through site visits, whether employers are meeting their procedural obligations under the Act. Commission representatives can attempt to negotiate employer compliance, and where negotiations have limited effect, can direct the employer to undertake specific remedies.

The Commission is mandated to act on behalf of the aggrieved, or it may initiate complaints on its own behalf. Whilst investigating, the Commission has the power to issue warrants and it is illegal to block the work of the Commission. After the Commission has investigated, a Human Rights Tribunal can be appointed to take the case further, or the complaint may be dismissed. The preferred working procedure of the Commission is to attempt to reach a conciliatory settlement.

If the complaint does go to tribunal, the tribunal can summon and enforce the attendance of witnesses and evidence and may take an oath. The measures that the Commission may insist upon are that the infringed rights are made available or that a compensatory payment is made.

In December 1992, the 'reasonable accommodation' and 'undue hardship' clauses were introduced in order to tighten the legislation further. The reasonable accommodation clause aims to further the goals announced in the 1991 National Strategy for the Integration of People With Disabilities. The independent tribunal can also award \$10,000 for wilful or reckless discrimination that imposes suffering, and \$50,000 can be levied against firms or unions for obstructing the tribunal or intimidating witnesses.

Key challenges facing human rights commissions have been their large caseloads and funding restraints. These factors have slowed responses to individual allegations of discrimination, sometimes for years, creating disincentives for individuals to pursue the formal complaint route. Another limitation of the human rights system has been the tendency for cases to be settled privately. Such cases do not set the same legal precedents as cases adjudicated by the courts, and, therefore, have had limited impact in helping address the root causes of discrimination.

Acts that contain the idea of 'reasonable accommodation' are more likely to benefit physical, rather than intellectual or psychiatric disabilities, because accommodation involves changes to the workplace rather than care and support issues (Roehrer Institute, 1993).

In any given year, cases of discrimination against disabled people make up a significant share of all human rights complaints that come before the commissions. These cases represent only the 'tip of the iceberg'. For example, over 319,000 disabled persons of working age said in the HALS survey they believed that they had been refused employment, a promotion, access to training or that their employment had been terminated in the past five years because of their condition. This amounts to 13.9 per cent of disabled persons of working age. Of these, only a small handful (14.7 per cent) took any action to address the problem, such as consulting with a union representative, a lawyer, a community association or a federal or provincial human rights commission.

Provincial human rights legislation

Every province and territory in Canada has a human rights statute which prohibits discrimination in employment based on a number of grounds. In 1977 New Brunswick was the first state in 1977 to extend the anti-discrimination law to physical disability. The other provinces and territories have followed suit. The relevant acts for the different provinces and territories are:

- Individuals Rights Protection Act (Alberta) 1980, amended 1985, 1988, 1990
- Human Rights Act 1984 (British Columbia)
- Human Rights Code 1987-88 (Manitoba)
- Human Rights Act 1973 (New Brunswick) re-enacted 1976, amended 1985.
- Human Rights Code 1988 (Newfoundland)
- Fair Practices Act 1988 (North West Territories)
- Human Rights Act 1989 (Nova Scotia)
- Human Rights Code 1990 (Ontario)
- Human Rights Act 1988 (PEI)
- Charter of Human Rights and Freedoms 1977 (Quebec), amended 1982

- Saskatchewan Human Rights Code 1979, amended 1989
- Human Rights Act 1986 (Yukon).

These have differing approaches to the duty to accommodate clause. Extensive case law relating to the various provinces has developed (Molloy, 1992).

Employment equity in the federal public service

In 1986, the federal government announced an employment equity measure as one of three mandatory employment measures. This is administered by the Treasury Board. Departments and agencies coming under Treasury Board authority account for 231,000 workers. It has the aim of improving representation of disabled persons within the federal departments. Representation of disabled persons among federal departments, however, remains low.

Two other measures, the Employment Equity Act and the Federal Contractors Programme, apply to the private sector and both are administered by Employment and Immigration Canada. They are outlined below.

Employment Equity Act

Employment equity laws are 'based on the acknowledgement that such groups encounter systematic barriers to employment as the result of long-standing discriminatory practices and other disadvantages' (Roehrer Institute, 1993, p.47). A new Employment Equity Act and regulations came into effect in October 1996. The Act requires employers to move toward a representative workforce by identifying, designing and implementing plans to remove the employment barriers faced by disabled persons and other designated groups (women, Aboriginal persons and visible minorities). It has other provisions that build on the first federal Employment Equity Act of 1986. Responsibility for monitoring compliance lies with the Human Rights Commission.

Such general provisions have been in effect since the 1986 legislation. More specifically, employers are required to collect information and conduct analysis to determine the degree of under-representation of designated groups, and to identify employment systems, policies and practices that result in employment barriers. They are to develop both short- and long-term plans for hiring, training, promotion, retention and job accommodations to address under-representation in employment; make reasonable efforts to implement

and monitor the effectiveness of those plans; make necessary revisions to plans; consult with employee representatives on implementation issues; keep proper records; and provide reasonable assistance and information to compliance officers. The Act clearly mandates the Canadian Human Rights Commission to verify compliance on these points through on-site visits. An Employment Equity Review Tribunal is intended to ensure dispute resolution and final enforcement where required.

The Act covers about 350 private sector employers and Crown corporations in federally-regulated industries such as banking, interprovincial transportation and communications. It now extends coverage to all federal departments and agencies for which Treasury Board is the employer, as well as to private sector employers with 100 or more employees and who are engaged in federal projects. In total, the act covers about 900,000 employees (eight per cent of the Canadian workforce). The Act does not require employers to hire or promote unqualified individuals, undertake measures that result in undue hardship or create new positions. Nor does the Act impose quotas.

If representation is poor, a review can be called for. If under-representation can be traced to systematic or intentional discrimination, then employers have a duty to correct that problem through a full employment equity plan.

Employment equity measures have had limited impact on overall employment of disabled people (Roehrer Institute, 1993). The suggestion is that 'sheltered' and enclave employment have been used to satisfy employment equity objectives. Problems with employment equity arise from no mandatory enforcement, little that requires employers to eliminate barriers, and low participation targets (Roehrer Institute, 1993). Despite this, there is an argument that some limited gains have been made, while focusing public and political attention on employment equality issues is also important.

Federal Contractors Programme

The Federal Contractors Programme, introduced by the federal government in 1986, applies to suppliers of goods and services to the federal government. This programme requires federal contractors to achieve and maintain a fair and representative work force. It covers organizations with 100 or more employees who bid on government contracts of over \$200,000. They are required to certify their commitment to implementing an employment equity programme. Contractors must identify and remove artificial barriers to selecting, hiring, promoting and training members of the designated groups, and they must increase the participation of designated groups at all levels of employment.

Under this programme 1,358 organisations, representing over one million employees, have signed certificates of commitment to employment equity. Some 872 employers are currently subject to compliance review. It is very rare for the right to bid on government contracts to be withdrawn for non-compliance, and employers are usually reinstated to the list.

According to the OECD (OECD, 1992) the focus of this approach is more on process than outcomes. The legislation allows for complete information on the groups in the federal jurisdiction area, and it allows employers to implement equity plans tailored to their circumstances and industry. Other positive aspects are the possibilities for public monitoring and for competition among employers. However, the lack of clear goals and procedures for determining success might weaken the impact of these laws, as might the absence of an agreed definition of disability. An important factor affecting the impact of employment equity legislation would be the existence of a strong consumer movement to act as a watchdog (OECD, 1992).

Effectiveness

Annual reports on the Act have consistently showed levels of employment and hiring far below the representation of disabled persons in the Canadian labour force. The representation of disabled persons in the Canadian labour force is itself a very low figure (6.5 per cent according to the method of calculation used for the purpose of Employment Equity) given that disabled people make up 12.7 per cent of working age

Canadians according to HALS. Terminations of disabled persons have exceeded hirings in workplaces covered by the Employment Equity Act most years since the Act's inception (Human Resources Development Canada, 1994).

Any apparent rise in the number of disabled people may come from greater self-identification among existing employees, rather than from increased recruitment of disabled persons. The National Employment Equity Network suggests that, without mandatory targets, the act will lack teeth and that ultimately employment equity will not be realisable. Some suggest that fines could be levied in conjunction with mandatory targets in order to make the operation more effective. These fines could then be put into a fund to pay for training of the various target groups (Holmes and Young, 1991).

PERSUASION POLICIES

Voluntary employment equity and affirmative action programmes have been established in many public and private institutions across the country. Swinging back towards a voluntary rather than legislated approach to employment equity, the Government of Ontario recently repealed its Employment Equity Act, introduced under the previous New Democratic Party, replacing it with the Equal Opportunity Plan. The Act had been the first of its kind setting out mandatory employment equity legislation at the province level for public, semi-public and private organisations, with varying degrees of requirements for employers in different sectors. The plan provides various supports to the voluntary efforts of employers to increase the representation in employment of disabled people and other disadvantaged groups.

The Equal Opportunity Plan fits with the Ontario Human Rights Code's general prohibitions of discrimination in employment. While the Employment Equity Commission is no longer in effect, several measures are planned to be introduced to improve the services, efficiency and effectiveness of the Ontario Human Rights Commission.

Of particular interest to disabled persons are the following programme elements:

- a website and an automated information and fax-on-demand service information on a range of employment-related issues (e.g., hiring practices, accommodations, job search strategies), as well as a number of 'success stories' that profile how employers have accommodated the needs of disabled workers
- partnership projects, training and education
- an accommodation fund to support disabled workers in the paid workforce and the volunteer sector
- measures to promote equal opportunity in the Ontario Public Service
 - a review of employment-related programmes within government for how they can better support disabled persons.

Other programme elements include measures to address issues of access to professions and trades for those trained and educated outside Canada, guidelines for police services, and policy statements on discrimination for educational institutions. Absent from the promotional literature for the programme is reference to strategic actions that will be taken to co-ordinate training, educational, health and social services to facilitate broader access to the labour market for disabled people.

Partnerships

In some communities, disabled people and their supporters are networking with key stakeholders in local economies, including labour representatives and chambers of commerce, to develop employment

opportunities. Many are using an individualized approach to employment planning, while others are trying to find ways of adapting workplaces and job tasks to the abilities and interests of disabled persons. The underlying aim is to tailor existing jobs or to negotiate new jobs to suit disabled individuals, rather than simply to tailor disabled individuals to the jobs that are available.

OPEN EMPLOYMENT: FINANCIAL MEASURES

Active re-employment measures break down into two broad streams; Re-employment Benefits and Support Measures. (Support measures are discussed above in the Employment Services section.)

Re-employment Benefits

Re-employment Benefits are available to applicants seeking employment consistent with local priorities for funding and who are current recipients of Employment Insurance (EI) Benefits, or who have received EI Benefits in the past 36 months, or have received maternity or parental benefits in the past 60 months and are now seeking re-employment.

Re-employment Benefits include:

- *Targeted Wage Subsidies* that are provided to employers who provide direct work experience to persons seeking re-employment
- *Self-Employment* financial assistance and other support which may be provided to individuals seeking to start their own businesses
- *Job Creation Partnerships* which are intended to facilitate work experience through community projects
- *Targeted Earnings Supplements* which may be provided on a temporary basis to top up the wages of individuals earning less than in their previous jobs, to ensure that income will be higher through employment than through income benefits<
- *Skills Loans and Grants* which may be available, depending on the agreement between the federal government and a given province, to help cover the costs of training and education.

These are new programmes, and statistics on their usage are not yet available.

Individuals who qualify for Re-employment Benefits must have a return-to-work Action Plan. There must also be some evidence that the benefit(s) requested will lead to stable employment. Disabled persons have experienced some successes with subsidised work placements and on-the-job training in the past.

Special equipment/workplace modifications

The HRDC (through the LFDS) also made available to employers up to \$10,000 per eligible person to offset the costs of special equipment and other job accommodations.

It is the believed, however, that funding arrangements to facilitate adaptations to the workplace are 'piecemeal, unco-ordinated and poorly publicized, creating confusion and discouraging employers from seeking access to these funds' (Roehrer Institute, 1993 p.79).

Disincentives of disability benefits

As with many other systems, there is the crucial issue of the 'either/or' nature of eligibility for disability benefits:

....for those who want to risk participating in the labour market, the dilemma is to present themselves as in need enough to secure the required supports from the income security system, but not so in need that training, VR, and job counselling/placement system considers them unemployable. However, under most income security programs, persons are most likely to enjoy access to critically important disability benefits only if they first allow themselves to be designated unemployable.

(Roehrer Institute, 1993, p. 157).

In addition, there are familiar problems about the welfare system clawing back earnings, and inflexibility in the time necessary for individuals to re-qualify for disability benefits if employment ends.

When disabled people not presently in the labour force were asked in HALS (1991) to give the main reasons why they were not looking for work, widely reported reasons were concerns about losing some or all of their current income (20 per cent), particularly disability pensions, or other benefits such as housing or drug plans (ten per cent).

Self-employment

Irrespective of disability, self-employment is becoming more popular as a way of creating employment opportunities in the labour market. Various models are being used by disabled persons. Some individuals are self-employed, either alone or in partnership with one or more others. According to HALS 1991, 12.4 per cent of working age disabled persons who are working are self-employed. Worker co-operatives have been established in which members (with and without disabilities) make decisions about business operations. Organizations of disabled persons have also formed business subsidiaries which are responsible for creating work for all disabled and non-disabled members.

Employment agencies have extended traditional roles as supported employment agencies and are providing support to individuals to become self-employed and start small businesses (Roehrer Institute, 1993).

Entire regions of Canada have undergone major economic upheavals in the past decade. In regions such as part of Atlantic Canada, there are few jobs for anyone and job opportunities are rare. In such situations, low interest loans and other forms of capital investment may be sought for business start-up purposes. In a few regions, disabled persons have sought and found equal access to the community economic development process and have started small businesses as components of broad community economic mobilization.

Available statistics for participation of disabled people in self-employment programmes are, however, surprisingly low. Disabled people made up only 3.3 per cent of an earlier programme operated by the HRDC, the Self-Employment Assistance Programme (Canadian Labour Force Development Board, 1994). Those responsible for delivering the programme tended to place little emphasis on including designated groups, despite policy specifically targeting designated groups for inclusion.

SHELTERED EMPLOYMENT

The provinces and territories have responsibility for sheltered work programmes, which are provided by non-profit organizations. However, the federal government has provided important revenues for this system through the Vocational Rehabilitation of Disabled Persons Act and agreements. In 1996, VRDP funds from

the federal government amounted to nearly \$170 million, roughly half of which targeted employment-related programmes.

Persons with intellectual disabilities are heavily represented in segregated programming, such as sheltered workshops. The proposal of the recent Federal Task Force on Disability Issues on VRDP reform could make it more possible than has historically been the case for individuals to make the transition from segregated to mainstream employment. This is because the proposal would allow for more individualized funding as opposed to facility-based or programme-based funding. However, it is not clear how the proposal would address the needs of those facing severe challenges to regular employment, for whom the sheltered workshop system was created in the first place.

Those in sheltered employment have traditionally received less than the minimum wage (Roehrer Institute, 1993). According to HALS 1986, about 20,000 individuals living in ordinary households said they were working in sheltered workshops. This is likely to be an under-estimate, because individual living in groups homes were not included in the survey (Roehrer Institute, 1993). Similar data from HALS 1991 were not made available.

Traditionally only very small numbers make the transition from sheltered to open employment. There is growing interest in mainstream as opposed to sheltered solutions. However, the current economic situation makes it difficult for disabled people to find suitable job opportunities. Some disability groups argue that more thought needs to be given to measures to integrate disabled person before the sheltered system can be disbanded.

SUMMARY

Responsibility for disability policy is divided between the federal and provincial level but the theme of partnership runs through Canadian disability policy. Shifts in the balance of the relationship between federal and provincial levels are currently in progress and disability programmes and services are undergoing rapid change. Through devolution, the provinces are obtaining many of the powers they need to co-ordinate labour market programmes.

In Canada policy and programmes for disabled people are in a state of upheaval. This is true in the employment field as in other sectors. Canada is at the beginning of a potentially irreversible shift of responsibilities for labour market programmes from the federal to the provincial and territorial governments. It is unclear whether increasing employment opportunities among disabled people will be a major priority.

The federal Employment Equity Act stipulates that a person will be considered disabled for the purpose of the Act if their prospects of employment are substantially reduced as a result of an ongoing or recurring physical, mental, sensory, psychiatric or learning impairment and if they consider themselves, or believe a potential employer would consider them, disadvantaged in employment because of their impairment. The Act relies on self-reporting rather than formal assessment of disability status. The Act includes individuals whose disabilities are completely or partially accommodated in their current job or workplace. The Canadian Human Rights Act adopts a broader approach to defining disability, including within its scope any previous mental or physical disability, as well as disfigurement and dependence (past or previous) on drugs or alcohol. Definitions of disability vary significantly between programmes in Canada. Some programmes require that an individual seeking access to services on the basis of disability have a loss of physical, sensory, intellectual or psychological functioning so severe that he or she is unemployable or has very limited employment potential.

The Canada Assistance Plan has been replaced by the Canada Health and Social Transfer (CHST). The CHST reduced the overall amount of federal cash transferred to the provinces and territories and imposed

few standards or other requirements on the provinces. Until recently, federal training allowances and a range of other supports for employment had been authorized by the National Training Act and the Unemployment Insurance Act. These acts were repealed in June 1996 and replaced by the Employment Insurance Act.

The newly constituted department of Human Resources Development Canada (HRDC) carries major responsibilities for labour market programmes. The trend in recent years has been towards integrating disabled persons in the mainstream of both vocational training and employment services. HRDC administers federal employment-related programs. The new Employment Insurance Act has meant employment services have undergone a fundamental reorganization.

Federal government, through the Vocational Rehabilitation of Disabled Persons (VRDP) Act, shared the provincial and territorial costs of a range of employment-related supports, technical aids and devices, sheltered work and other programmes geared to facilitating the training and gainful employment of disabled people. Rehabilitation services were funded through provincial and territorial health organisations, CAP, VRDP, workers compensation, and public/private insurance plans.

Until recently, HRDC had purchased training courses and programmes for unemployed clients from community colleges, private training institutions and other local organizations. HRDC has begun to phase out the purchase of training, but may provide grants and loans to help offset training costs to individuals in some provinces/territories. What effect these arrangements will have on disabled people is unclear.

A number of acts exist at both the federal and provincial levels to increase opportunities for disabled persons. The most fundamental of these are the Canadian Human Rights Act (amended 1985) and the Charter of Rights and Freedoms which prohibit discrimination on the grounds of disability. All provinces also have their own anti-discrimination legislation. Key challenges facing human rights commissions have been their large caseloads and funding restraints, which slow responses to individual allegations of discrimination.

The Employment Equity Act (1986) and the Federal Contractors Programme both promote employment equity among federally related contractors and have received widespread publicity and have, seemingly, a high profile. Employment equity is also promoted in the public service itself and is monitored by the Treasury Board. Employment equity measures have had limited impact on overall employment of disabled people.

Financial incentives include Targeted Wage Subsidies that are provided to employers who provide direct work experience to persons seeking re-employment; Self-Employment financial assistance and other support which may be provided to individuals seeking to start their own businesses; Job Creation Partnerships which are intended to facilitate work experience through community projects; Targeted Earnings Supplements which may be provided on a temporary basis to top up the wages of individuals earning less than in their previous jobs to ensure that income will be higher through employment than through Income Benefits; and Skills Loans and Grants which may be available, depending on the agreement between the federal government and a given province, to help cover the costs of training and education.

The HRDC also made available to employers up to \$10,000 per eligible person to offset the costs of special equipment and other job accommodations. Employment agencies have extended traditional roles as supported employment agencies and are providing support to individuals to become self-employed and start small businesses.

The disability pension has come under scrutiny of late owing to the growing caseload and the unfunded future liability of the Canada Pension Plan, for which the disability pension has been identified as partly responsible.

The provinces and territories have responsibility for sheltered work programmes, which are provided by

non-profit organizations. However, the federal government has provided important revenues for this system through the Vocational Rehabilitation of Disabled Persons Act and agreements. Persons with intellectual disabilities are heavily represented in segregated programmes. Those in sheltered employment have traditionally received less than the minimum wage and only very small numbers make the transition from sheltered to open employment. There is growing interest in mainstream as opposed to sheltered solutions.

According to HALS, disabled people made up 12.7 per cent of the (non-institutionalized) working age population in 1991, up from 10.4 per cent in 1986. This amounted to 2.3 million persons. Among non-disabled persons people aged 15 to 64, 73 per cent were employed in 1991. Another 7.9 per cent were unemployed, while 19.1 per cent were not in the labour force. Among disabled persons, only 48.2 per cent were employed, 8.1 per cent were unemployed and 43.7 per cent were not in the labour force in 1991.

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DENMARK

POLICY AND INSTITUTIONAL CONTEXT

Disability policy and legislation

The Danish approach to the employment position of disabled people has to be seen in the context of social policy in Denmark. Danish policy aligns itself with the Nordic approach, the central feature of which is the idea that citizens' social rights are not contingent on the strength of their past or present attachment to the labour market. Disability policy has been based around principles of solidarity, normalization, and integration (Hansen, 1995). Service provision is based on the notion of solidarity, with society taking responsibility for providing services according to need. The law on social assistance (1974) lays down that assistance may be granted to anyone in need of guidance, financial or practical assistance, of support in developing or regaining occupational abilities, or of care, special treatment or educational support. Thus, it is the need for assistance that qualifies a person for help, not disability per se.. Similarly, Danish policy and its administration by local and regional authorities aim to integrate disabled people in school, into the labour market and into community life on equal terms with other people using compensatory measures where necessary (Isling and Wiederholt, 1995). As Hansen (1995) notes, the aim of policy in Denmark is to provide each individual person with the means to live as normal life as possible.

The special legislation against discrimination based on race, colour, religion or other characteristics does not specifically include discrimination against disabled people. The constitutional basis for Denmark's legislation affecting disabled people is section 75(2) of the Constitution, which states that any persons unable to support themselves or their dependants are entitled, where no other people are responsible for their or their dependants' maintenance, to receive public assistance (WHO, 1990).

Legislation relating to disabled people originated in general legislation on social support, education and medical care which was sometimes supplemented by special statutes concerning specific groups such as hard-of-hearing people (1950), blind people (1956) and mentally handicapped people (1959). However, the Social Assistance Act of 1974 abolished the special legislation on services for disabled people and placed disabled people on an equal position with other groups. The principle of equality between disabled and other citizens is fundamental to policy. The fact that there is no special legislation for disabled people - except where needs cannot be met through mainstream provision - is a matter of some pride in Denmark.

Recent developments include a unanimous decision made in 1993 by the Danish Parliament to recommend that all public and private authorities and business enterprises comply with the principle of equal treatment of disabled and non-disabled people. At the same time the Parliament established the Equal Opportunities Centre for Disabled Persons. This parliamentary decision clearly indicates that the principle of equal treatment is the cornerstone of Danish policy concerning disabled people. Equal treatment of citizens with disabilities implies actively ensuring equal access to every area of society, including areas where compensatory activities are required. It is the responsibility of all sectors of society to ensure that the needs of disabled people are taken into consideration. A monitoring role for the Ombudsman is also being developed.

Employment policy and disabled people

Government traditionally has stood back from interference in the labour market, leaving labour market difficulties to be resolved by the 'social partners'.. Because of the political stance in favour of non-interference in the labour market there has been no tradition in Denmark of obligations imposed on employers to employ or train vocationally disadvantaged people; nor have labour unions pressed for such moves (Nielsen, 1991).

However, action to combat unemployment now has top priority in Denmark. Efforts in recent years to combat the rise in unemployment up to the mid 1990s have seen a reorientation away from passive benefits towards alternative labour market schemes, such as job creation projects, and training and rehabilitation for unemployed people (Ministry of Social Affairs, 1995a). At the same time, a new principle has been introduced to the effect that rights must be accompanied by duties (Ministry of Labour, 1996). The series of recent labour market reforms after January 1994 has two main objectives. The first is to give all persons affected by unemployment reasonable training and job opportunities. The second is increasing opportunities for taking leave and creating a higher degree of job rotation (MISEP, 1995). These reforms seem likely to introduce a more active labour market than has traditionally been the case in Denmark, although it is not yet clear how these provisions will impact upon disabled persons.

In Denmark, providing jobs for disabled people is seen within the wider problem of opportunities for all socially disadvantaged groups (Bengtsson, 1995). The policy for the integration of disabled people into the workforce is based on the principle that special measures shall apply only when a disabled person cannot achieve this without support (Nielsen, 1995). Disabled people's organisations take the view that a quota scheme would breach principles of equality and normalisation of the situation of disabled people. Registration as a disabled person would not be acceptable because it assumes that it is possible to define the groups covered. Such definition is not acceptable if one believes that disability is a relationship between individuals and their environment. Their negative reaction to the idea of a quota system does not mean that disabled people's organisations accept that disabled people are already integrated into the labour market.

A recent initiative of the Minister for Social Affairs (Ministry of Social Affairs, 1995b) is to promote the social responsibility of enterprises, as part of a new partnership for social cohesion which shifts the emphasis away from wholly public solutions to social problems. Thus enterprises are encouraged to prevent and solve social problems, often in collaboration with local governments. Initiatives include employment of people with reduced capacity for work and retention of employees suffering from illness or accidents.

The increasing emphasis on the idea that all sections of the workforce should be integrated into the labour market was part of the rationale for establishing the Commission for Jobs on Special Conditions. The Commission was created jointly by the Ministries of Labour and Social Affairs to study measures that might help retain workers in jobs when their work capacity has been reduced through illness, accidents, and ageing.

Evolution of disability employment policy

During the 1950s there was a growing policy focus on rehabilitation. In the 1960s an emphasis on rehabilitation for physical disability changed to one concerned with all type of disability; physical, psychiatric, mental, and social (Bengtsson, 1995).

Policy appears to have developed incrementally since the mid 1980s, going beyond the long-standing arrangements for preferential access to occupations on special conditions. This is exemplified by arrangements for state supplements to the wages of certain disabled people in open employment, by the very

recent introduction of state subsidised personal assistants for disabled people in the workplace, by special employment promotion measures for particularly disadvantaged groups of unemployed people, and by the development of new voluntary initiatives aimed at increasing the integration of disabled people. The Commission for Jobs on Special Conditions highlights the growing policy emphasis around job-retention.

Policy-making and implementation

Responsibility

Decentralization and divided sectoral responsibility are guiding principles for disability policy-making and implementation (Hansen, 1995). In the 1970s a number of reforms led to a reorganisation of the tasks and economic responsibilities of central government, counties and municipalities. A large number of duties were shifted from central to local government. Denmark was divided into 16 counties and 274 municipalities, governed by politically elected bodies. The development of policy aims to bring the implementation of policy as close to persons as possible, with implementation by local and county councils (Nielsen, 1995).

The Ministry of Labour is responsible for open employment and training activities or programmes for a number of groups including disabled people. However, an act of 1990 permitted county and municipal authorities to initiate employment measures to combat unemployment among particularly disadvantaged groups of unemployed and non-insured people. These measures can include recruitment subsidies, placement arrangements, and purchase of training courses.

As far as health and social services are concerned, the municipalities are responsible in the first instance for advice, rehabilitation and payment of pensions. Counties take responsibility for provision and organisation of sheltered workshops and measures of rehabilitation and re-training for non-insured jobless. The Ministry of Social Affairs has overall authority at the national level for rehabilitation and sheltered work. The Ministry of Education has responsibility for education and qualifications.

The Public Employment Services are organised in 14 regional offices, each of which has a number of local offices.

Social Partners

The two sides of industry are represented on the National Labour Committee, set up by the Ministry of Labour and operating at a national level. Each region has a Labour Market Council representing the social partners and the municipal authorities.

Involvement of disabled people's organisations

Since 1980, Denmark has had a national council for disabled people in which representatives of the different groups of disabled people as well as representatives of various ministries, local and county authorities and experts, participate (Seyfried and Lambert, 1989). The National Council was set up when responsibility for disabled people shifted from national to local government and is intended, in part, to ensure that users have influence at national level (Ministry of Social Affairs, 1992). The Council can take the initiative in proposing policy changes and it is commonly consulted by central government departments.

DEFINITIONS OF DISABILITY

There is no official definition of disability in Denmark but an operational measure of reduced capacity for work is used as a criterion for granting benefits (discussed below).

STATISTICS

Denmark has the highest employment rate in the European Union. In 1995, 75 per cent of women and 83 per cent of men aged 16-66 participated in the labour market; and unemployment stood at 288,000, an unemployment rate of 10.3 per cent (MISEP, 1997). Unemployment had risen to 12.5 per cent in 1993 (MISEP, 1995). The rate is reported by Denmark Statistics to be continuing to fall in 1996.

Because there are no official definitions of disability, there are no official statistics available on the number of disabled people, and on numbers employed and unemployed (Hansen, 1995).

Disabled people in employment

In Denmark, as in all other societies, unemployment rates for disabled people across all sectors are likely to be significantly higher than non-disabled people (Isling and Wiederholt, 1995). An estimate by the national organisation for disabled people is that 60-70,000 disabled persons have normal jobs, some involving adapted workplaces and some using aids (ibid). It is hoped an initiative underway at the Danish National Institute of Social Research will give better insight into the employment problems of disabled people (Nielsen, 1995).

In 1993, 282,000 people of all ages received disability benefit (including anticipatory pension) as a result of physical, mental or social disability, although it is not possible to distinguish between the different types of disability. Of this number, 43,000 had a job (15 per cent) (Commission for Jobs on Special Conditions, 1995). This total figure comprised 29,300 salaried workers and 14,100 self-employed persons. Among salaried workers, more than 90 per cent were employed in the public sector, while a third of self-employment was in agriculture.

According to the Danish Ministry of Labour (communication, 1996) disabled people in professional jobs (both salaried and self-employed) are older than the active population as a whole, and there is a particular 'surplus' of older self-employed workers.

Rising unemployment was considered to create major problems for the 'real' integration of disabled people within the labour market (Bengtsson, 1995).

EMPLOYMENT SUPPORT SERVICES

Mainstream assessment and placement

Placement services for disabled people have been provided through the public employment services. In 1990 new legislation gave the municipalities the responsibility for measures for training and employment of certain 'groups of occupationally disabled' people - the non-insured receiving cash benefits. They have strictly defined obligations to support financially young unemployed people, whether or not disabled, and to generate training and employment opportunities for them (Nielsen, 1991).

Specialist assessment and placement

In 1994, an experimental three-year plan was put into operation to take on disability counsellors in the 14 Employment Agency Regions. As Hansen (1995) notes, 'the task of the disability consultants is to provide jobs in open employment to disabled people, and the disability consultants have to be disabled themselves'.

The aim was to promote the integration of disabled people into the workforce. The counsellors' role is that of placement, guidance and labour market training, as well as acting as a contact point to manage arrangements for personal assistants at work and preferential recruitment. The initial piloting of these disability consultant has been made permanent. So far, disability consultants have given priority to providing information to employers and disabled people about privileged access to jobs in the public sector, and regulations on subsidised personal assistants.

Training

According to Isling and Wiederholt (1995) there are approximately 50 vocational training centres in the counties offering special training and education for people with reduced capacities for work and specialised job consultants. In addition, vocational training and education is offered in ordinary enterprises, at ordinary schools, and other educational institutions.

Mainstream training

Most people's training needs are met by mainstream vocational training. This is in part attributable to the education of young disabled people within the mainstream and the 'Kurator' arrangement which is designed to minimise the chances of becoming 'lost' to the system after leaving school. The Kurator teaches young people in the final years of schooling from age 13, is responsible for vocational preparation and is available to individuals and families as they move through post-school training and the early years of employment (Sailor, 1991).

Specialist training

While, in principle, vocational education and training should take place within the normal framework, where this is impossible because of the nature of the disability, vocational training may take place at special rehabilitation institutes. Rehabilitation centres operate under paragraph 91 of the Social Assistance Act, no. 333 of 19 June 1974; county councils may run centres themselves or make arrangements with a private institution to provide vocational rehabilitation and training.

Counties may build systems adapted to local circumstances including rehabilitation centres, vocational training institutes, individual sheltered employment, and sheltered employment:

- Vocational rehabilitation centres are special institutions for assessment of working capacity. These draw up vocational training plans or might recommend anticipatory pensions.
- Vocational training institutions offer courses for training and retraining. These may specialise in certain impairments.
- Individual sheltered placements are discussed under wage subsidies. There are two types of arrangement: public funds pay a maximum of 50 per cent of the minimum wage and the employer pays at least the remaining 50 per cent; and where disabled people receive an anticipatory pension municipalities pay one-third of the minimum wage. To be eligible persons must have made a failed rehabilitation attempt.

Rehabilitation Institutes are run by the counties in close co-operation with the local authorities. As a consequence of decentralisation, rehabilitation activities across the country vary. In 1993, there were 278 Rehabilitation Institutes in Denmark (National Labour Market Authority communication, 1996).

The numbers of places in the various types of provision are shown in Table D.1.

Table D.1 Number and type of rehabilitation places, by year

Year	1988	1989	1990	1991	1992	1993
Rehabilitation Clinic(assess vocational ability)	687	633	761	694	662	937
Training/rehabilitation	1,656	1,603	1,388	1,419	1,692	1,803
Sheltered employment	7,802	7,775	7,664	7,748	7,790	7,393
Sheltered employment in special day centres	3,032	3,174	3,614	4,125	4,264	4,421
Total	13,176	13,191	13,427	13,986	14,408	14,549

Source: Denmark Statistik

Table D.2 shows expenditure by counties and local authorities on rehabilitation institutions and sheltered employment in the ordinary labour market.

Nielsen (1991) comments that training within the company is an essential ingredient and that accordingly resources must shift away from institutional training centres. Although there is no comprehensive system for integrating vocational rehabilitation within the workplace, increasingly attempts have been made to move rehabilitation from the institutions into real work situations. Rehabilitation centres were reported in 1991 as developing closer co-operation with private and public companies to transfer practical training as far as possible to the workplace (Nielsen, 1991). This trend has continued, alongside discussion about the future of specialist training centres and about the need for a closer fit between the skills they promote and the needs of the labour market.

Grants can be paid to employers towards part of the wages paid to people being retrained in the normal labour market, according to a paper by the Ministry of Social Affairs (1992).

Table D.2 Expenditure by counties and local authorities on rehabilitation institutions and sheltered employment in ordinary labour market (public or private) in million DKK, 1994

Year	Total
1988	561.0
1989	580.5
1990	623.3
1991	622.7
1992	659.3
1993	706.2
1994	736.9

Source: Denmark Statistik

When training is underway trainees get a fixed rehabilitation benefit of DKR 11,081 month. Those under 23 get half this total. Assistance is also granted in meeting special costs arising as a result of undergoing training. These support provisions may last for a maximum of five years. For retaining and training in open employment there is the assistance of grants for salary costs, purchase of tools, and payment for short tem courses (Hansen, 1995).

Supported employment

According to the Ministry of Social Affairs, there are many small-scale innovative projects to promote employment opportunities for disabled people with special needs. Certain HORIZON projects focus on employment opportunities for deaf and deaf-blind people, people with severe physical disabilities and people with learning difficulties.

OPEN EMPLOYMENT: LEGAL OBLIGATIONS AND RIGHTS

Denmark does not have an employment quota, nor does it plan to introduce such a quota. It is felt that such a system is contrary to Danish tradition (Commission on Jobs on Special Conditions, 1995). The setting up of such systems would necessitate the systematic registering of disabled people. Opposition from disabled people's organisations remains strong (Isling and Wiederholt, 1994).

Recent moves have aimed to increase use of legislative measures. The Ministry of Labour and the Ministry of Social Affairs have co-operated to implement a joint campaign to inform the public about the possibilities in the legislation to find and create more jobs for disabled people. The only legislative measure in favour of disabled people is preferential access to specified occupations. The Danish Ombudsman has completed a study concerning public authorities administration of the regulation concerning disabled people's preferential access to public jobs, with the recommendation that a campaign be initiated to increase awareness of the legislation.

Preferential access to specified occupations

Preferential admission to employment appeared in legislation as early as 1960, in the Rehabilitation Act (no. 170) of 29 April 1960. Article 9(1) said that:

On the recommendation of the Rehabilitation Co-ordinations Committee a royal order may be issued requiring state and commune undertakings...and institutions which operate with public recognition and support to give preferential admission to certain posts to peoples who are unable by reason of disability to obtain employment in the public employment market.

Section 30(2) of the Social Assistance Act of 1974 stated that 'the Minister of Labour should make regulations providing for the preferential admission to certain publicly regulated occupations of people who by reason of disablement have difficulty in finding employment in open industry'.. The Act was amended on 5 July 1984 (Law no. 413). Those provisions have since been incorporated within a Consolidations Act (no. 613) of 18 December 1985 (Order on Preferential Treatment of Disabled People in connection with recruitment for certain publicly regulated jobs).

State, regional, local authorities, institutions and work where over half the wage bill is paid by public authorities have an obligation to give disabled persons priority of access to employment. Disabled people are entitled to an interview if they are of comparable standards to other candidates (Hansen, 1995). All other thing being equal, public institutions and enterprises have an obligation to employ the disabled person. In practice, however, this will have little effect if screening out disabled applicants occurs because of difficulties in comparing certain type of qualifications (Isling and Wiederholt, 1995).

Information provided by the National Labour Market Authority suggests the priority access provision is little used, indeed usage has never been high. The rules applied to 76 people in 1991; and in the first nine months of 1992 the figure was 94. According to the Ministry of Labour (communication, 1996) no statistics have

been made available on the number of workers benefitting from preferential access to the public sector.

There is also a duty on public authorities to consult the employment services when granting commercial licences for selling newspapers and similar goods (Hansen, 1995).

PERSUASION POLICES

Changes in attitudes and disabled employment provisions by voluntary measures are preferred to special legislation for persons with disabilities (Isling and Wiederholt, 1995).

Promotion of social responsibility of enterprises

The voluntary approach underpins the Minister of Social Affairs recent campaign to promote the business sector's commitment to solving social problems which can arise at the workplace and to integrating individuals who might otherwise be excluded from employment, such as those with reduced earnings capacity. The Minister has supported a number of projects which will serve as models for development, including projects to integrate physically disabled people in the workplace, job-retention of people who become chronically ill and rapid follow-up of people on sick leave (Ministry of Social Affairs, 1995a).

Other measures particularly relevant to disabled people include the establishment of the Equal Opportunities Centre for Disabled People, and the setting-up of the Commission for Jobs on Special Conditions.

Equal Opportunities Centre for Disabled People

In April 1993, Parliament adopted a decision on equal status and equal treatment of disabled people relative to other citizens, and the Resolution incorporated a decision to establish an 'Equal Opportunities Centre for Disabled People' under the protection of the Ministry of Social Affairs. In the resolution, the Ombudsman of Parliament is also called upon to monitor developments in the area of equal opportunities and if necessary lodge a formal complaint. The Ombudsman's authority was limited to the national level, rather than municipal and counties, but is extended as from January 1997.

The Centre is an independent institution co-operating across all sectors with ministries, local municipalities, organisations of disabled people and private enterprises. The Centre was set up in connection with the National Disability Council. The Centre's mission is to collect, produce and disseminate information on the situation of disabled people and the impact of certain disabilities, both at national and international levels. It should be aware of situations where disabled people are discriminated against. The Equal Opportunities Centre can highlight matters of importance to disabled people through the Council and, where appropriate, through the Danish Parliamentary Ombudsman, including the content of current and future legislation. In 1994 the Centre became established with eight employees and an annual budget of DKR 3 million. The Centre is run by an executive committee of six people representing disability organisations, the State, and local and county organisations.

The main tasks of the Centre are to contribute to the providing the highest level of information, ensuring that equal treatment is adhered to, and calling attention to situations in which this does not happen. Its activities may be summarised as:

- collecting and communicating information about the circumstances of disabled people
- providing consultancy services to both public authorities and private companies as well as individuals

who wish to ensure equal treatment of disabled people

- following legislative developments, nationally and international, especially on the EU level
- analysing trends of significance to the equal status of disabled people
- reporting incidents of discrimination to the National Disability Council for further political discussion
- informing the Ombudsman of discrimination against people with disabilities
- making an appraisal of the equal treatment of disabled people in its annual report, upon which the Minister of Social Affairs bases his/her report to Parliament.

If the Centre observes discrimination against disabled people, it may take action to settle the problem with the respective authority. The Director of the Centre notes, 'the establishment of the Equal Opportunity Centre for Disabled Persons clearly indicates that we still have a fair way to go as far as the practical implementation of integration policy is concerned'.. The Centre does not have any powers, however, and its activities are primarily based on dialogue, information and the mediation of knowledge.

Commission for Jobs on Special Conditions

In May 1995, a special commission, the 'Commission for Jobs on Special Conditions' was created jointly by the Ministry of Labour and the Ministry of Social Affairs, and consisted of representatives from the counties, local authorities, employers and employees. The aim of the Commission was to study the possible measures which might impact on the work of personnel already employed, whose capacity for work has been reduced through illness, accident, and effects of age. The aim was to promote jobs on special conditions introduced on the basis of social chapters of collective agreements. The proposed model is that of voluntary agreement, with jobs established on the basis of agreement without public subsidies, although the latter can be granted individually if required. Existing opportunities for personal assistants and workplace adaptation should be used more (Commission for Jobs on Special Conditions, 1995) .

OPEN EMPLOYMENT: FINANCIAL MEASURES

Support for employers

Among recent developments has been action to promote opportunities in the legislation to finance social initiatives by enterprises. A folder 'Action to Take when Earning Capacity Diminishes' has been published by the Danish Federation of Trade Unions, the Danish Employers Confederation and the Ministry of Social Affairs (Ministry of Social Affairs, 1995b).

Wage subsidies

The use of wage subsidies has been referred to as individual sheltered employment in the ordinary labour market. A regulation adopted in 1980 required employers to bear at least 60 per cent of the wage costs of disabled employees with a reduced output, with the municipal and county authorities making up the remainder. This was known as the '60 per cent - 40 per cent' system. The proportions have been revised to become 50 per cent - 50 per cent from 1 January 1995. The arrangement must be reviewed every year. In some cases, such an arrangement proves to have a rehabilitation effect and the persons may later be taken on at a normal wage (Ministry of Social Affairs, 1992). It is a precondition that the person concerned does not meet the qualifying conditions for an anticipatory pension (an early retirement pension). Seyfried and Lambert (1989) reported the unofficial belief that most jobs under the 60 per cent - 40 per cent rule are held by physically disabled persons. An alternative arrangement is for a disabled person to retain his or her pension and in addition earn one-third of the lowest wages at the place in question (the 'one-third' system).

In 1994, 5,077 protected workers were assessed under the 50/50 formula (the old 40/60 formula) and 350 under the one-third formula. Isling and Wiederholt (1994) note that the persons assessed are assumed to have

a reduced productivity and the subsidy is used as an incentive for employers. Disabled people employed with a wage subsidy enjoy some, but not all, of the normal employment rights of workers in Denmark. They may receive cash benefits from the municipality but they cannot join unemployment funds and are not entitled to early retirement pensions. Some concerns have been raised about the implications of people retiring or losing a job under the 50-50 system and the effect this may have on their benefits (Commission for Jobs on Special Conditions, 1995). There are also some concerns that wage subsidies may push some people out of jobs and exert downward pressures on wages. The Commission for Jobs on Special Conditions (1995) believes that more research and evaluation is required around the impact of wage subsidy schemes.

Some commentators express the need for more part-time work options and better use of technology to encourage the integration of disabled people in the labour market (Isling and Wiederholt, 1995).

Support for Employees

Anticipatory pensions

People between the ages of 18 and 67 who have a significantly reduced capacity for work may be eligible for an anticipatory pension paid via the public pension system. According to Hansen (1995) there are four types of pension:

- *Ordinary anticipatory pension* is on the same level as old-age pension. It may be granted to people 60-67 years old whose working capacity is reduced by at least 50 per cent due to physical, mental or social reasons.
- *Increased ordinary anticipatory pension* may be granted to people between 18 and 59, whose working capacity is reduced by at least 50 per cent due to physical, mental or social reasons. The amount is the same as ordinary anticipatory pension supplemented with DKR 938 per month.
- *Intermediate anticipatory pension* may be granted to disabled people with two-thirds reduced working capacity. The amount is the same as ordinary anticipatory pension supplemented with a disablement allowance of DKR 1,798 per month.
- *Maximum anticipatory pension* is granted to disabled people with insignificant working capacity. The amount is the same as the ordinary pension with a disablement allowance of DKR 1,798 per month and an unemployability rate of DKR 2,48 per month.

On the basis of assessment of individual cases, some pensioners are eligible for personal allowances if their financial situation is particularly strained. Allowances may be granted for medicine, dental treatment, special diet food and the like. Personal allowances may be granted for many different purposes.

Incentives for self-employment

Disabled persons can get set-up loans to establish their own businesses. They may also be entitled to subsidies to set up businesses if they fulfil certain conditions.

Article 43 of the Social Assistance Act of 1974 says that 'assistance may be granted for setting up a trade or business, including the supply of a motor vehicle forming a normal part of the particular trade of business'. This assistance is in the shape of a loan, to be decided by the local rehabilitation and pension board on the recommendation of the local authorities. Personal assistant support is also available to self-employed disabled people.

As Hansen (1995) notes, an individual can get assistance to purchase a new vehicle as part of start-up of a new business. The personal assistance scheme discussed below is also available to self-employed disabled persons.

Personal assistance to disabled workers

In December 1991, the Danish Parliament adopted a law (Act no. 928 of 27 December) under which personal assistance may be given to disabled workers so that they have the same chances of performing a job as able-bodied persons.

The new legislation was based on the findings of a pilot project which included personal assistance to disabled workers. This has become a statutory and permanent scheme as of 1 January 1992 and is administered by the public employment service. The new facility of personal assistance is now available not only to employees, but also to self-employed people who need special assistance to perform their work due to blindness, diminished sight, deafness, impaired hearing or other serious handicaps. The role of the personal assistant is to help the disabled person with practical aspects of work which he or she would otherwise be unable to perform. The measure appears to be of particular benefit to blind and deaf people. In general for example, Denmark emerged from an EC social policy study as the country providing the best service for deaf people (Jones and Pullen, 1993). Payment for assistance is available for a maximum of 20 hours a week. Applications to receive such help go to the Employment Service and the grant is paid to the employer.

The law on personal assistance for disabled people at work was modified in 1995, notably to increase the target group to cover equally people employed at sheltered workshops who conform to the one-third and 50/50 formulae of the Ministry of Social Affairs.. People undergoing training may also get a grant towards personal assistance.

The subsidy is granted to enterprises which employ disabled people, or to the self-employed people themselves. The personal assistant is employed by the enterprise under the standard term of employment and must be approved by the disabled person prior to his or her recruitment. The subsidy which corresponds to the contractual wage for students working within the public sector can be paid for up to 20 hours per week.

Isling and Wiederholt (1995) note that 7,000 disabled people a year have personal assistants paid by public authorities to assist them so they can hold a normal job. More than half of disabled people who have assistance are deaf. Figures for assistance granted in 1995 are shown in Table D.3.

The total budget in 1995 was DKR 13,854,828.

Workplace adaption and other expenses

Grants can also be given for small adjustments to the workplace and for the procurement of working tools and such like (Hansen, 1995). Subsidies can also be provided under the Social Assistance Act for adapting workplaces. No funding is available for minor expenditures (below DKR 200) or consumer durables.

SHELTERED EMPLOYMENT

Sheltered workshops are the main bodies orientated towards productive labour. Special day centres provide training in life skills for severely disabled persons and may engage in a limited number of production activities. These centres are, however, primarily routes to sheltered workshops and may be organised as enclaves within workshops, or as autonomous units (Samoy, 1992). Discussion below focuses on the activities of sheltered workshops.

According to the Ministry of Labour there are no figures available on numbers engaged in sheltered workshops. However, according to figures from Denmark Statistik, the numbers are as shown in Table D.4.

Table D.3 Subsidised personal assistance for 1995

Category of impairment	Number of persons
blind	273
physical disabilities	72
deaf	781
other	80
no data	42
Employment status	
employed	1,090
self-employed	116
no data	42
Total persons granted assistance	1,248

Source: Ministry of Labour

Samoy (1992) quoting unofficial figures says there were about 120 sheltered workshops with 7,664 employees at the beginning of 1991, indicating little growth in the numbers attending sheltered workshops since 1987.

Aims and target group

Workshops are open 'to people who are not able to find or retain a job in open employment' (article 91 of the Social Assistance Act 1974); this excludes people who could find a job with some support or training. By law, they should cater for all people who need assistance with finding a job because of social or psychological problems, but authorities are obliged to give priority to 'severely disabled people'.

Table D.4 Numbers in sheltered employment 1988-1993

	1988	1989	1990	1991	1992	1993
Sheltered employment	7,802	7,775	7,664	7,748	7,790	7,393
Sheltered employment in special day centres	3,032	3,174	3,614	4,125	4,264	4,421

Source: Denmark Statistik

Provision and funding

The Social Assistance Act of 1974 (article 91, 1, 2) brought sheltered workshop under the authority of county councils (Council of Europe, 1996). Before the Act of 1974, sheltered workshops formed part of the large public institutions for disabled people, offering accommodation, education, rehabilitation and employment (Samoy, 1992).

Counties can run workshops themselves or make arrangement with a private organisation. The county is

responsible for planning, inspection and for the regulations governing finance. It seems most workshops have been set up by counties. The Ministry of Social Affairs (1992) states that sheltered workshops now are often run in connection with a rehabilitation institute, with separate divisions for sheltered work and rehabilitation. Rehabilitation centres and sheltered employment may be established by countries, municipal, and private provides with which the county makes agreement on the management and operation of the institution (Hansen, 1995).

Labour conditions

Employees are generally paid a piece rate, calculated on the basis of the minimum wage. Samoy reports that few people achieve anything near the minimum wage, with most achieving only ten to 15 per cent of it, but most also receive a disability benefit which would be cut if workshop wages increased significantly. Employees in sheltered workshops are not members of unemployment funds and are not entitled to early retirement pensions.

SUMMARY

The Danish approach to the employment position of disabled people has to be seen in the context of social policy in Denmark. Disability policy has been based around principles of solidarity, normalization, and integration. Disabled people are entitled to financial, practical or social support on the basis of need not of disability itself. Rights are not contingent on attachment to the labour market. The principle of equality between disabled and other citizens is fundamental to policy, and there is no special legislation.

Government traditionally has stood back from interference in the labour market, leaving labour market difficulties to be resolved by the 'social partners'. However, action to combat unemployment has top priority in Denmark, and a series of labour market reforms after January 1994 are aimed at achieving this. Policy appears to have developed incrementally since the mid 1980s, going beyond the long-standing arrangements for preferential access to occupations on special conditions. There is also increasing emphasis on all sections of the workforce being integrated into the labour market; a major reason for establishing the Commission for Jobs on Special Conditions was to study measures that might help retain workers in jobs.

Since reforms in the 1970s, a large number of central government duties in health, social and education services, including rehabilitation and sheltered workshops, shifted to local government. Most training needs are met in the mainstream but where this is impossible vocational training may take place at special rehabilitation institutes. County councils may run centres themselves or make arrangement with a private institution to provide vocational rehabilitation and training, building systems adapted to local circumstances. There is also the use of specialist disability counsellors whose role is placement, guidance and labour market training, and a contact point for co-ordinating arrangements for personal assistants at work and preferential recruitment.

In open employment there are few measures directed specifically at disabled people. Any idea of a quota system has been ruled out; defining a person as 'disabled' contradicts basic principles and is seen by disabled people's organisations as discriminatory. The only legislative measure in favour of disabled people is preferential access to specified occupations, introduced as early as 1960, but currently little used.

Voluntary initiatives aimed at changing attitudes are preferred to special legislation for disabled persons. In the Danish context there has been increasing attention to such measures with the establishment of the Equal Opportunities Centre for Disabled People and the Commission for Jobs on Special Conditions. The Centre's

mission is to collect, produce and disseminate information on the situation of disabled people and the impact of certain disabilities, both at national and international levels. The Centre has no powers and its activities are primarily based on dialogue, information and the mediation of knowledge. The Commission for Jobs on Special Conditions studied possible measures which might impact on the work of personnel already employed, and particularly for disabled people whose capacity for work has been reduced through illness, accident, and effects of age. The idea is that jobs on special conditions be introduced on the basis of social chapters of collective agreements.

There is a wage subsidy for employees with reduced output. The person's productivity is assessed yearly by the municipal authorities (assuming productivity will increase) and a new subsidy may be fixed. In 1994, 5,077 protected workers were assessed under the 50/50 formula and 350 under the one-third formula. Disabled people employed with a wage subsidy enjoy some of the normal employment rights of workers in Denmark. But they cannot join unemployment funds and are not entitled to early retirement pensions.

From 1992, personal assistance may be given to disabled workers so that they have the same chances of performing a job as able-bodied persons. This facility is available to employees and to self-employed people. Applications for such help go to the Employment Service and the grant is paid to the employer. For 1995, 1,248 people were granted assistance. Grants can be given for small adjustments to the workplace and for the procurement of working tools and such like, and disabled persons can get set-up loans and subsidies to establish their own businesses.

Sheltered workshops, often run in connection with a rehabilitation institute, are available for people who cannot find or retain a job, even with support or training. There were around 7,400 people in sheltered workshops in 1993. Employees are generally paid a piece rate, calculated on the basis of the minimum wage. Few people achieve the minimum wage, but most also receive a disability benefit which would be cut if workshop wages were higher. Those in sheltered workshops are not members of unemployment funds and are not entitled to early retirement pensions.

Registered unemployment stood at 278,854 in 1995, 9.6 per cent of the labour force (Denmark Statistics). Because there are no official definitions of disability, there are no official statistics on the number of disabled people, or on numbers employed and unemployed. An estimate by the national organisation for disabled people is that 60-70,000 disabled persons have normal jobs, some involving adapted workplaces and some using aids.

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¹According to Denmark Statistics, unemployment stood at 278,854 and the unemployment rate was 9.6 per cent in 1995.

FINLAND

POLICY AND INSTITUTIONAL CONTEXT

Disability policy and legislation

The inclusion of disabled people within Finnish society and securing equal opportunities are widely accepted policy goals. These goals are pursued via rights legislation, and through service provision that best supports these objectives. Principles of integration and normalization help shape the direction of disability policy in different social policy areas.

Employment policy

Work is highly valued in Finland; in principle, all citizens have a right to work. In line with other Western European economies, however, Finland is experiencing major changes in the structure of production, labour utilization, and types of available work. The supply of traditional jobs has been displaced by temporary, fixed-contract and short-term opportunities. Certain duties and jobs have disappeared altogether, while ongoing training may be necessary to provide the necessary flexibility for those opportunities that remain. Economic restructuring includes a reduction in the overall level of demand for labour, which has major implications for marginalised groups.. The general unemployment rate rose from 3.4 per cent in 1990, peaking at 18.4 per cent in 1994, and stood at 16.4 per cent in 1995 (Ministry of Labour, 1995). Commentators agree that the general demand for labour has a decisive influence on the relative position of disabled people, and recession particularly impacts on disabled jobseekers (Haapasalo et al., 1994; Mannila, 1995). The long-term unemployment of disabled people and their exclusion from the labour market have increased (Ministry of Labour, 1995).

Social security expenditure on unemployment measures rose eight-fold between 1985 and 1994, and unemployment expenditure is now more than double the cost of active labour market operations, as Table F.1 shows.

Not surprisingly, this situation has led to attempts to rectify the imbalance between income maintenance schemes and the use of active labour market programmes. Particular priority groups are those long-term unemployed, youth unemployed people, and disabled people. It is widely accepted that options for disabled people should include education and re-integration into the labour market, rather than a disability pension (Oulu County Seminar Report, 1994). Preventing early retirement is also on the agenda.

Table F.1 Active employment measures and unemployment security: expenditure in FIM million

Year	Active measures	Unemployment security
1985	2,135	1,984
1991	5,176	5,127
1992	6,815	9,837

1993	6,593	13,462
1994	6,127	15,500

Source: Ministry of Labour (1995)

Changes taking place in related sectors also have implications for disabled people and work activities. Deinstitutionalisation of groups such as those with learning disabilities requires imaginative solutions in terms of work opportunities, particularly taking account of the special needs of young and severely disabled people (Union for Mental Disability, 1993).

Evolution of disability employment policy

General rehabilitation and disability policy in Finland originated with a concern for certain groups such as the visually impaired, the hearing impaired, and disabled children. In its early phase, policy was based on notions of charity and help. At the turn of the twentieth century, the growth of organisations of disabled people, particularly of visually and hearing impaired people, encouraged the development of self-help. Later phases in the evolution of disability services and policy are marked by the development of statutory service responsibilities. After World War II, the first disability legislation was passed in Finland; the Act on Vocational Rehabilitation legislation of Disabled War Veterans (1942), and the Disabled Persons' Welfare Act (1946). The 1960s and 1970s were a period of consolidation and saw integration, normalisation, and expansion in disability employment services. However, important changes to rehabilitation legislation occurred in the late 1980s. In particular, the Act on Co-operation in Respect of Rehabilitation Service, obliges municipal social welfare authorities, education authorities, representatives of employment administrations, as well as of the Social Insurance and Employment Pensions Institutions to engage in closer co-operation. Encouraging earlier return to work, and facilitating work retention, are current policy priorities.

The National Advisory Committee on Rehabilitation (the Rehabilitation Delegation) - a national co-operative organisation - adopted its first national action programme in 1987, and a revised programme in 1995. The Action Programme >From Disability to Ability (Ministry of Social Affairs, 1995) is a collaborative project of the Ministry of Labour, Ministry of Education, Ministry of Social Affairs and Health and various rehabilitation organisations. >From Disability to Ability outlines the policy objectives of:

- timely identification of vocational rehabilitation needs
- promotion of vocational training and improvement of labour market skills
- employment on the open labour market
- prevention of exclusion from the labour market.

In 1995, the National Council for Disability, a co-operative body of administration and disabled people, adopted the Action programme Towards a Society for All (National Council for Disability, 1996) based on the principles of inclusion and integration. Their report highlighted how the greatest barriers to participation of disabled people are attitudinal ones, as well as environmental factors and difficulties in obtaining assistive devices or job assistants. To eliminate these barriers they suggest that measures are taken to make workplaces more accessible, that support is given to encourage the use of new technologies, appropriate training, placement and that ongoing support is provided. The Council believes that any strategy must incorporate employers and the unions. The latter, it argues, have, until now, carried only a small share of responsibility for those excluded from working life.

Employment of disabled job applicants is achieved primarily by mainstream employment services, training and subsidized employment. In addition, specialist vocational rehabilitation is arranged for disabled people,

and an employment subsidy may be paid to an employer for employing a disabled person. Employment offices may also place disabled job applicants in sheltered work, which is arranged by municipalities, federations of municipalities, or private communities. The funding of sheltered work is arranged through the state grant scheme for social welfare and health services. Responsibility for sheltered work caused some continuing controversy between the Ministry of Social Affairs and the Ministry of Labour, and during reorganisation of Ministry responsibilities in 1989 production workshops were not transferred.

In Finland, there are over 70 national organisations representing the interests of disabled people. Organisations may arrange services such as housing and rehabilitation, and also carry out research and development projects. Towards a Society for All recommended that the recruitment and personnel policies of disability organisations need to pay greater attention to employing more disabled individuals, acting as role models for the wider labour market.

Policy-making and implementation

For regional administration Finland has been divided into 12 provinces. Local government is separate from state administration and for this purpose the country is split into 461 municipalities. Municipalities are responsible for social welfare and raise taxation. Principles of integration and normalization result in responsibility for disability employment policy and return to work measures being divided among several mainstream bodies and authorities.

The Ministry of Labour and labour administrations

The Ministry of Labour defines the national priorities of employment policy. It allocates yearly resources to Labour District Offices, which are responsible for the planning and implementation of regional employment policy. Labour districts establish objectives for the employment offices in their region, which are responsible for the planning and implementation of local employment policy. This includes vocational guidance and rehabilitation, job placement services, labour market training, and information on vocational services. Employment offices seek to promote an efficient labour market by helping unemployed people find work through placement services, matching vacancies and other programmes. They also participate in making payments to unemployed people and provide measures to help disabled people get back to work.

Labour administrations provide economic incentives for workplace adaptations and employment of disabled people. They also fund assessments and retraining of workers who become disabled, pay training allowances, and offer financial assistance for disabled people to establish their own businesses.

Social Insurance Institution

The Social Insurance Institution is the body with main responsibility for carrying out Finnish social security policy, including pensions, disability benefits, unemployment allowances, health insurance, and rehabilitation benefits.

Labour Protection Authority

The Labour Protection Authority is concerned with the working environment, including access to workplaces, and health and safety measures.

Municipal authorities

Local municipal authorities are responsible for the provision of sheltered employment and for customer service groups for rehabilitation. They are also responsible for benefit administration and for providing aids and financial support for personal assistance, including interpreter services.

The National Advisory Board for Rehabilitation at the Ministry of Social Affairs and Health develops, co-ordinates and implements new co-operation legislation around rehabilitation.

The Finnish contribution to The 1995 *Multiannual Programmes for Employment of the EU Member States* (EC, 1996) observed that the division of responsibility between different authorities was unclear where disabled people are concerned. It advocated the assumption of more clearly specified roles and tasks by municipalities and the labour administrations, including organising the necessary co-operation with other public agencies.

Social Partners

The National Advisory Committee on Rehabilitation (the Rehabilitation Delegation) has an important consultative but non-statutory role in disability and employment policy. As outlined, the Committee incorporates interests of the Ministries of Labour, Education, and Social Affairs and Health. It also includes representatives of rehabilitation organisations, the Social Insurance Institution, insurance institutions, municipalities, social partners and organisations of disabled people.

DEFINITIONS OF DISABILITY

In accordance with the ILO Convention Concerning Vocational Rehabilitation and Employment of Disabled Persons (no. 159, 1983) a person whose prospects of securing, retaining and advancing in employment are substantially reduced as a result of a duly recognised physical or mental impairment is considered disabled by the Finnish Employment Services. The establishment of disability is based on a medical report.

The Act on Rehabilitation Provided by the Social Insurance Institution defines a disabled person as someone, 'whose working ability and earning capacity have substantially reduced as a result of impairment, injury or sickness'.

STATISTICS

In 1995 Finland had a workforce of 2.5 million and an unemployment rate of 16.4 per cent (Ministry of Labour, 1995). Eight per cent of the working population (defined as all people aged 15-74), were in receipt of a disability pension or early disability pension. Between 1987 and 1990, there were 40,000 to 43,000 disabled jobseekers registered in the Finnish Employment Services; between seven and eight per cent of all jobseekers. Since that time, as Table F.2 shows, the proportion of disabled jobseekers to all jobseekers has fallen due to the sharp rise in unemployment, despite numbers of disabled jobseekers having risen substantially to 58,000 in 1994. At the end of 1994, unemployment was 18 per cent, while amongst disabled people it was estimated to be almost twice as high (Ministry of Labour, 1995).

Table F.2 Disabled jobseekers as a proportion of all jobseekers

	Disabled job seekers	All job seekers	Disabled as % of all
1987	39,650	559,227	7
1988	42,894	454,982	8
1989	43,332	513,728	9
1990	42,802	528,829	8
1991	46,256	719,400	6
1992	51,858	907,556	6

1993	55,541	1,028,647	5
1994	58,055	1,047,000	5.5

Source: Ministry of Labour (1995)

Not all those registered as disabled jobseekers are unemployed; some disabled people register while still working, and some disabled people register while on training and rehabilitation schemes. Between January and August 1995, the employment offices saw an average of 47,000 job-seekers, 33,000 of whom were unemployed. About 40 per cent of unemployed disabled people had been unemployed for over a year (EC, 1996). The proportion of severely disabled people is estimated to be between five and ten per cent of all disabled job seekers.

In this current economic climate access to employment for disabled people is increasingly difficult and work placements are harder to secure. The positions of deaf-blind, deaf, blind and visually impaired people are said to have particularly deteriorated.. Some suggest that subsidised employment is required to maintain and enhance employment of jobseekers with learning disabilities, and that further resources should be directed at rehabilitation assessments, work trials, practical work training, and adaption of work environments (Eronen and Ravaja, 1993).

EMPLOYMENT SUPPORT SERVICES

Labour market authorities prefer to integrate disabled people into mainstream employment programmes and to encourage disabled people to make use of the 183 local employment offices and the services they offer. Employment offices direct disabled job seekers to open employment, labour market training or to subsidised employment, as Table F.3 shows.

As from the beginning of 1994, the Employment Act has included a statute on the responsibility of the state to arrange and develop vocational rehabilitation services for disabled persons as part of the employment services. The services include vocational guidance, counselling and guidance concerning job placement and training as well as labour market training, organised expressly for disabled people.

Training

Two particular problems have been identified in relation to disabled people and their training needs. First, the position of young disabled people raises issues about the transition to employment from education and training and a possible skills deficit. Secondly, a growth in the number of disabled adults raises problems for those whose training is out-of-date or deficient.

Mainstream assessment and training

Vocational guidance services are available in 120 multi-service employment offices around the country. These cover 45,000 people annually, half of whom are young people. Disabled people represent about one-quarter of the annual total.

Vocational training was reformed in 1987, partly aimed at increasing flexibility in the vocational training provided. There are 485 vocational training institutes in Finland with 200,000 places available. The aim is for disabled people to study in these mainstream institutions, in both mixed and special groups. Integrated students with disabilities account for between three and seven per cent of the total number of students in vocational training institutes. There is a suggestion,

Table F.3 Disabled job seekers directed by employment offices to open employment, labour market training for adults and subsidized employment, by year

Number of disabled job seekers	Open employment	Labour market training	Subsidized employment
1987 (39,650)	10,986	2,274	8,395
1988 (42,894)	13,688	2,135	12,296
1989 (43,332)	16,848	2,520	12,384
1990 (42,802)	15,604	2,651	7,897
1991 (46,256)	14,558	2,323	13,777
1992 (51,858)	14,213	3,185	12,630
1993 (55,541)	13,599	2,914	11,644
1994 (58,055)	13,593	3,745	13,058

Source: Ministry of Labour (1995)

however, that disabled people's access to mainstream training is in many cases limited because of the lack of programme flexibility, as well as other obstacles and conditions. In 1995, the Finnish government adopted a programme to increase vocational training opportunities for disabled people between 1996 and 1999.

The labour administration purchases employment training from vocational training institutions, vocational training centres, universities and private enterprises. This purchasing is based on competition. During the period of employment training, individuals are paid a subsidy at the level of unemployment benefit, plus an allowance to cover travel and similar expenses. There is little evidence on the effectiveness, or otherwise, of training programmes, although studies are underway to evaluate the impact of employment training on job prospects..

Specialist training

In addition to mainstream provision there are 16 special vocational institutes for disabled people. These cover 1,500 students, with some institutions specialising in the training of a particular group; one provides services for individuals with visual impairments, two serve those with hearing impairments, three provide services for individuals with learning disabilities. Six of the schools are maintained by the state, the others by private organisations receiving state subsidies. A disabled student receives financial support and necessary aids during this training period (Seppäläinen, 1994).

Table F.4 Disabled people commencing labour market training for adults arranged by labour authorities, 1998-1995

Year	Number
1988	2,135
1989	2,520
1990	2,651
1991	2,323

1992	3,185
1993	2,914
1994	3,745
1995	4,450

Source: Ministry of Labour (1995)

Research suggests that similar proportions of those who stopped or completed a labour market training course and of disabled people previously in subsidized employment joined the open labour market (Mannila, 1993). Adult training has not met the expectations held of it in the late 1980s and low numbers of disabled people have been entering training. A strategy towards small and medium employers may be necessary to rectify this problem (Mannila, 1995).

Supported employment

There has been a growth of 'integrated sheltered work', which covered 600 individuals by the end of 1992. Integrated sheltered work seems to be similar to what other countries label 'supported employment'.. Individuals with mental disabilities in particular make use of this form of provision, and activities are centred around catering, cleaning, and maintenance. The costs of integrated sheltered work are significantly below those of traditional sheltered work activities; its daily costs of FIM 20-80 compare favourably to those of FIM 150-250 for sheltered workshops. Supported employment is considered to be a logical growth of these 'integrated sheltered work' activities. It is estimated that about 1,500 disabled persons in Finland will be in integrated sheltered work by the end of the decade (Finnish Association of Mental Retardation, undated).

The Foundation Promoting the Employment of Disabled People has established the Finnish Network for Supported Employment (FINSE) to promote the education, awareness, and communication of good practice around supported employment. It has over 90 members. The project faces two tasks: creating more favourable attitudes towards supported employment; and removing obstacles to employment created by the structure of the Finnish social security system. The Supported Employment Project organised by the Foundation aims to develop a Finnish model of supported employment in co-operation with sub-projects. Key features will be a paid job within integrative work environments, with training at the job site and ongoing support. (See Venäläinen, Foundation Promoting the Employment of Disabled People, undated.)

In addition to the co-ordination of supported employment, there have been specific service initiatives. The project, 'Supported Employment' in Finland received HORIZON funding and was used by 170 individuals in its first three years.

Return to work and work retention

If capacity to work declines, individuals must have the opportunity to undertake training to maintain and improve work capacity, and are also eligible for support in setting up in self-employment. Severely disabled people are eligible for aids and adaptations (Social Insurance Institution, 1995).

Encouraging earlier return to work and facilitating work retention are current policy priorities. In 1991, a wide reform of rehabilitation legislation was carried out to improve the population's capacity for work and activity. To encourage this there have been 22 amendments to existing legislation, and three important new Acts came into force at the beginning of October, 1991. Rehabilitation activities of the Social Insurance Institution are governed by these three Acts:

- Act on Co-operation in respect of Rehabilitation Issues
- Act on Rehabilitation to be provided by the Social Insurance Institution
- Rehabilitation Allowance Act.

The changes aimed at reducing the need for workers to transfer to disability pensions or other long-term social benefits, clarified responsibilities and increased co-operation. They also sought to reduce the regional differences in the availability of rehabilitation services and brought some new groups into its scope. Attempts to ensure that rehabilitation is begun at an early stage, particularly in the workplace, were consolidated. The changes also provided for the standardisation of subsistence benefits paid for the period of rehabilitation, and clarified division of responsibilities (Ministry of Labour, 1995).

The rights of disabled people to vocational training and pre-training were guaranteed by prescribing an obligation for the Social Insurance Institution to arrange training for people whose disability results from an illness, deficiency or an injury which causes a significant reduction in working capacity. In 1994, over 9,000 disabled people participated in the vocational training and pre-training arranged by the Social Insurance Institution.

The responsibility for undertaking measures to maintain working capacity, and for obtaining practical results, lies with employers. Company-based health care can play an important role. A problem relating to a disabled employee's ability to do the job may be resolved on the basis of provisions in collective agreements.

Rehabilitation allowance is paid for services arranged by the Social Insurance Institution. The allowance is only paid if the objective is for the client to remain in, enter, or re-enter employment. The Social Insurance Institution arranges medical rehabilitation for those persons with severe disabilities who are not in institutional care and occupational rehabilitation for persons whose capacity for work is essentially reduced. Disabled people entitled to pensions or daily unemployment allowances have their benefits increased by ten per cent when taking part in rehabilitation. The Social Insurance Institution pays the rehabilitation allowance when it decides on rehabilitation.

When the Employment Pensions Institute makes the rehabilitation decision it is responsible for payment of the rehabilitation allowance. New amendments related to rehabilitation in the pension laws came into force from the beginning of 1996. They stress rehabilitation more purposively than before. Instead of suggesting a fixed disability pension the medical and other experts must consider rehabilitation and the Employment Pensions Institutions must pay a fixed allowance to support the retention of people with partial incapacity in the labour market.

The Social Insurance Institution gives rehabilitation allowances and aids to enable studies for disabled people. Table F.5 shows the number of these allowances distributed to disabled people between 1988-1995.

Table F.5 Number of rehabilitation allowances, 1988-1995

Year	Number
1988	8,097
1989	8,781
1990	9,598
1991	9,974
1992	9,825
1993	9,082

1994	8,010
1995	5,736

Source: Ministry of Labour (1995)

OPEN EMPLOYMENT: LEGAL OBLIGATIONS AND RIGHTS

Finland has no quota or preferential employment type of policies. Nor is there over-arching anti-discrimination legislation.

Non-discrimination legislation

Amendments to the Constitution Act (969/1995), which came into force on 1 August 1995, renewed clauses on the fundamental rights of the citizen and adopted several new ones. A clause added to the Constitution Act stated that no-one should be placed in a different position because of, amongst other reasons, disability. A second part of the reform of the Finnish penal code included an extension to sanctions in an attempt to make the policy more effective (Korpi, 1995).

Labour law

Changes to the Constitution Act in 1995 did not, however, include employment, which is covered under separate labour legislation. Under the terms of this labour legislation, 'a finding of unlawful labour discrimination will be given, if, in advertising vacancies, during selection of applicants or employment, the employee is placed in a different position, without sufficient grounds, because of, for example his or her state of health' (Korpi, 1995). The penalty is a fine or imprisonment for a maximum of six months. There appears to be no available information about the operation and effectiveness of this particular labour measure.

Protection against dismissal

The agreements on protection against dismissal contain provisions that outline the order in which employment may be terminated. Employees who have lost partial working capacity while with an employer are among those who enjoy the best protection. The Labour Court has interpreted the provision to mean, in extreme cases, that the employer may be obliged to set up a 'tailor-made' job for such persons.. However, after one year of partial incapacity related to sickness, the employer has a legal right to dismissal if suitable work cannot be found.

Work environment

Under the Occupational Safety Act, the scale and placing of work and tools, machinery and equipment should enable employees to perform their work tasks adequately. An amendment of 1993 stipulates that the use of technical aids and the special needs of disabled people must also be taken into account. This requirement also applies to facilities and workplaces. A Finnish database on technical aids available to disabled workers was completed during 1993.

OPEN EMPLOYMENT: FINANCIAL INCENTIVES

Wage subsidies

In line with the Employment Act (275/87), an employment office attempts to match unemployed persons in the open labour market, or arranges training to widen opportunities. Failing both of these, job opportunities may be improved by temporarily providing employment subsidized by employment funds. The basis of granting employment subsidies rests in the Employment Act (275/87) and the Employment Decree (130/93). An effort has been made to enhance employment operations in recent years and the number in subsidised employment has increased. Its impact on the unemployment rate in the entire country is 2.7 per cent. Special attention has been paid to the improving the labour market competition of those with the weakest standing in the labour market; young people, those experiencing long-term unemployment, and disabled people.

A revised Employment Decree was passed in 1993, including provisions for subsidized employment for disabled people. For unemployed persons, a subsidy can be granted for six to ten months, while for a disabled person the subsidy can be paid to the employer for a maximum of two years. The amount of subsidy varies for each individual, placed through Employment Services or other employment measures. Individuals have a work contract with employers and receive a wage. The basic subsidy is paid at FIM 118 a day. In state offices and institutions, the employment subsidy covers the entire wage. Wage subsidised labour is growing in importance (Mannila, 1993, 1995). The share of disabled people in subsidized work was 3.3 per cent of all those employed in subsidized work. The share of the private sector more than doubled between 1991 and 1994.

In granting employment subsidies it is intended that they should not distort competition between companies. Such subsidies cannot be granted if the employer has laid-off personnel or made redundancies during the last three months, or if granting a subsidy would detract from the working conditions or benefits for other workers. Since 1 April 1995 rules for granting subsidies have been tightened. Firms will only be granted subsidies as compensatory support to apprenticeship training, and when a company employs an unemployed person they must do so with an employment contract that is longer than the subsidy period. Changes also increased the discretionary powers of employment offices in individual cases, and attempts were made to simplify the scheme, for example to increase the possibilities of combining training, rehabilitation and subsidized employment. Drawing on data for disabled job seekers, 76 per cent of subsidised places are in the public sector, while over 50 per cent are in municipal jobs.

A major study of wage subsidies (reported by Mannila, 1995 and 1995a), notes that between 1987 and 1990 there were between 40,000 and 43,000 disabled job seekers. By 1994 this figure had risen to 58,000, and there were 13,000 people in subsidised employment (see Table F.3). He found that the disabled persons in subsidized work had positive images of work, while their employers had positive images of the workers that had been taken on under its provisions. In addressing whether subsidies affected transfer to open employment, research found that in 1990, one-third, and in 1992, one-quarter, of all disabled employees engaged in subsidized employment in 1988 had found jobs in the competitive labour market (Mannila, 1995). These statistics are comparable to the experiences of disabled people who had undergone training, and also to those of non-disabled people who had previously been in subsidized jobs.

Mannila (1995) also found that those in private-sector jobs were more likely to find employment in the competitive sector than those working in comparable public sector jobs.

Traineeships

Mannila (1995) notes the growth in another form of incentive, 'traineeships'. This scheme provides subsidies for on-the-job training, although individuals do not have a work contract. The aim of this initiative is to help individuals adjust to working life and to enable them to try new working tasks. The measure is

primarily directed at young people, where on-the-job-training may lead to admittance for vocational training. The number of people in on-the-job training averaged 4,600 in 1994, although no statistics are available on the numbers of disabled people.

Grants for adaptations

Other financial support is available, including finance to a maximum of FIM 15,000, granted to employers for adaptation to the working conditions of disabled people. This funding can also be provided for a job assistant (max FIM 1,500 month for two years). The Social Insurance Institution provides grants for technical aids and adaptations to the workplace and training. It includes costs of alterations to machinery and working environment, and can be used to cover extra costs arising from help a fellow worker gives to a disabled person at work.

The Ministry of Labour and local labour administration provides grants for workplace adaptations and equipment, and compensation to employers for up to a two years if the disabled employee needs the help of another employee. In 1993 various supportive measures for job placement were paid in 3,800 cases.

Self-employment

It is possible to support self-employment by paying employment subsidies to unemployed persons planning self-employment. The Social Insurance Institution has obligations to support self-employed disabled workers to a maximum of FIM 100,000. Table F.6 shows numbers of disabled people obtaining loans and financial support.

Individuals can be granted FIM 5,000 a month during the initial start-up phase of their business, which usually lasts for six to seven months. The number of those employed by this measure averaged 4,900 in 1994, and in total 11,500 new enterprises were founded during the year.

PERSUASION POLICIES

There appears to be little reported material on national policies aimed at voluntarily changing attitudes towards the employment of disabled people. EMPLOYMENT-HORIZONS is a new attempt to change attitudes through national campaigns to increase awareness of disability.

There has been a campaign in connection with the amendments to the pension laws concerning rehabilitation to encourage employers towards early rehabilitation of employees at risk of losing their capacity to work. Targets have not been met, partly because of massive unemployment.

In 1990 the social partners adopted a recommendation on workplace measures to maintain working capacity.

Table F.6 Number of disabled people obtaining loans and financial support 1988-1995

Year	Number
1988	548
1989	642
1990	812

1991	692
1992	308
1993	9,082
1994	243
1995	190

Source: Ministry of Labour (1995)

SHELTERED EMPLOYMENT

Sheltered work in Finland may be divided into four major types:

- sheltered (productive) work for disabled people
- work-related activities for people with learning disabilities
- therapeutic work for psychiatric illness, where participants receive pocket money rather than wages and where activities are concerned with care rather than production
- social purpose work activity.

Our discussion here mainly concerns the first type, sheltered productive work.

Sheltered productive work

Public financing of sheltered workshops was introduced in 1970. Prior to that, workshops were financed by voluntary organisations. Currently, sheltered work is still regulated by the provisions of Care for the Invalids Act (1946), the relevant provisions of which have been integrated in the Service and Assistance for the Disabled Act (1987) (cited in Samoy and Waterplas, 1996). According to Section 22 of this Act, sheltered work can be arranged in sheltered workshops, an employee's home, or at any other suitable place. The principle funder can be a municipality, a federation of municipalities or another organisation. Sheltered employment centres are mainly operated by local authorities or federations of municipalities, as well as organisations of disabled people. The present trend is towards less privately run workshops and more integration in the body of municipal services for disabled people.

There is an obligation on municipalities to provide sheltered work. They may do this by making their own provision, by grouping together with several other municipalities, or by contracting another organisation to provide it. In 1992 there were 126 sheltered (productive) units; 25 were municipally owned, 74 were federations of municipalities, and 27 were privately owned. These units catered for about 2,900 employees, at an annual cost of FIM 476 million. States and municipalities covered 53 per cent of the costs through grants, the remainder of the operating costs was raised by selling products. At the end of October 1992 the impairments of those employed within productive workshops were:

- mental disabilities 28 per cent
- learning disabilities 14 per cent
- back/limbs 12 per cent
- sensory 8 per cent
- other illnesses 23 per cent
- other reasons 15 per cent

Labour conditions in productive workshops

Disabled people are directed to workshops through employment agencies or by municipal welfare services. In common with many other European countries, debates are underway on the purpose of sheltered workshops. Disability groups, for example, favour sheltered employment on the open labour market. The Ministry of Social Affairs and Health Action Programme suggested that sheltered opportunities for transition to the open labour market should be enhanced.

In sheltered work, employees have employment contracts and working conditions determined by collective agreements for sheltered work. As Samoy and Waterplas (1996) highlight, work conditions are determined by separate collective agreements for sheltered work for municipalities, and private sheltered workshops. Generally speaking, wages are lower than in open employment; in 1992 they were between 87 and 98 per cent of the minimum wage.

Samoy and Waterplas (1996) comment on the marginal number of places in productive sheltered workshops in Finland. Finland offers only 1.13 places per 1,000 workforce, well below the EC average of 2.3 places. They believe the future of workshops is uncertain because of the stigma, low wages and the actual cost of provision.

- Debate about the future development of sheltered workshops in Finland centres around:
- should the aim of sheltered workshops be employment or rehabilitation?
- should the employment be stable or temporary?
- what kind of organisation would be the best to co-ordinate the workshops with the new activity model?
- how should the financial situation of workshops be organised?

(Varanka, 1996).

There are no statistics on numbers of individuals moving from sheltered workshops to open employment. The numbers, however, are assumed to be low (Varanka, 1996). Sheltered work constitutes a part of social welfare and health care. Disability organisations believe that more responsibility for sheltered work should fall to labour authorities, rather than to social welfare authorities. The number of individuals in sheltered work has declined, and continues to do so at the rate of four per cent a year. The rise in unemployment has made it increasingly difficult to move from sheltered workshops to the open labour market.

New forms of employment

An ECHO project is aimed at integrating people with mental health problems. It looks to develop a new employment model for the target group, including social firms and enterprises, and supported employment models.

SUMMARY

The inclusion of disabled people within Finnish society and equal opportunities are accepted policy goals. Principles of integration and normalization help shape the direction of disability policy. In principle, all Finnish citizens have a right to work.. The country, however, is experiencing major changes in the structure of production, labour utilisation and types of available work. Attempts have been made to rectify the imbalance between income maintenance schemes and the use of active labour market programmes.

A person is defined as a disabled person if their possibilities to get suitable work, maintain a job or advance in working life have been considerably weakened due to a disability, illness or a deficiency. The

establishment of disability is based on a medical report.

Employment of disabled job applicants is achieved primarily by mainstream employment services, training and subsidized employment. The aim is for disabled people to study in mainstream institutions, in both mixed and special groups. The labour administration purchases employment training from the organisers of training: vocational training institutions, vocational training centres, universities and private enterprises.

Specialist vocational rehabilitation may be arranged for disabled people, and an employment subsidy paid to an employer for employing a disabled person. Employment offices may also place disabled job applicants in sheltered work. There has been a growth of 'integrated sheltered work', similar to what other countries label 'supported employment'. Individuals with mental disabilities particularly make use of this form of provision, and activities are centred around catering, cleaning, and maintenance.

Encouraging earlier return to work and facilitating work retention are current policy priorities. Important changes to rehabilitation legislation occurred in 1991, with legislation obliging closer co-operation between welfare and labour administrations. The changes clarified responsibilities and increased co-operation, encouraged earlier intervention and standardised rehabilitation allowances. The responsibility for undertaking measures to maintain working capacity, and for obtaining practical results, lies with employers.

Finland has no quota or preferential employment type of policies and no over-arching anti-discrimination legislation. A clause added to the Constitution Act in 1995 stated that no-one should be placed in a different position because of, amongst other reasons, disability. Changes to the Constitution did not include employment, which is covered under separate labour legislation.

The agreements on protection against dismissal contain provisions that outline the order in which employment may be terminated. Under the Occupational Safety Act, the scale and placing of work and tools, machinery and equipment should enable employees to perform their work tasks adequately. Technical aids and the special needs of disabled people must also be taken into account. This requirement also applies to facilities and workplaces.

Job opportunities may be improved by temporarily providing employment subsidized by employment funds. An effort has been made to enhance employment operations in recent years and the number in subsidised employment has increased. Employment subsidies can be divided between support to the employer to pay costs and support to the unemployed person for self-employment and on-the-job training. For unemployed persons, a subsidy can be granted for six to ten months, while for a disabled person the subsidy can be paid to the employer for a maximum of two years. The amount of subsidy varies for each individual, placed through Employment Services or other employment measures. Individuals have a work contract with employers and receive a wage.

'Traineeships' provide subsidies for on-the-job training, although individuals do not have a work contract. The aim of this initiative is to help individuals adjust to working life and to enable them to try new working tasks. The measure is primarily directed at young people, where on-the-job-training may lead to admittance for vocational training.

Other financial support is available to employers for adaption to the working conditions of disabled people. This funding can also be provided for a job assistant. It is possible to support self-employment by paying employment subsidies to unemployed persons planning self-employment.

Public financing of sheltered workshops was introduced in 1970. Prior to that workshops were financed by voluntary organisations. Sheltered employment centres are operated mainly by local authorities or federations of municipalities, as well as by disabled people's organisations. Disabled people are directed to workshops through employment agencies or by municipal welfare services. The purpose of sheltered workshops is under

debate. Generally speaking, wages are lower than in open employment. There are no statistics on the number of individuals who move from sheltered workshops to open employment. The rise in unemployment has made it increasingly difficult to move from sheltered workshops to the open labour market.

In 1995 Finland had a workforce of 2.5 million and an unemployment rate of 16.4 per cent. Eight per cent of the working population (defined as all people aged 15-74), were in receipt of a disability pension or early disability pension. Between 1987 and 1990, seven to eight per cent of all jobseekers registered in the Finnish Employment Services were disabled. By 1994, the number of disabled jobseekers had risen to 58,000 (from 39,650 in 1987) but their proportion of total job seekers fell to 5.5 per cent. At the end of 1994, unemployment was 18 per cent, while amongst disabled people it was estimated to be almost twice as high. Although there are no official figures, about 70 per cent of disabled jobseekers were unemployed in mid 1995. The proportion of severely disabled people is estimated to be between five and ten per cent of all disabled job seekers.

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FRANCE

POLICY AND INSTITUTIONAL CONTEXT

Disability policy and legislation

The comprehensive Disability Act of 30 June 1975 is considered the cornerstone of French disability legislation. Article 1 states that the integration of disabled people in the educational system and in working and social life is a national obligation. To promote this integration, the act sets out various services in cash and in kind that are available for all disabled persons irrespective of the nature and origin of their impairment. Earlier social security legislation, measures under the law of 1975 to assist previously employed disabled persons, measures to promote disabled access, and anti-discrimination legislation are briefly described to provide the context for a consideration of employment policy for disabled people.

Social security legislation

In 1898 the first major legislation dealt with the protection of victims of work accidents. Compensation is granted for any disability assessed within the range of ten to 100 per cent with the award of a permanent pension varying in proportion to the degree of disability. Compensation for physical injury caused by war to both civilians and members of the armed forces has been covered since 1919 by several enactments. This legislation covers pension rights, retraining in specialist centres and employment in private enterprises and in the public service. The right to a pension and the degree of disability are assessed on the basis of a scale, codified in 1951.

Disability insurance (dating from 1930 and 1945) provides earnings-related invalidity pensions to persons

insured under the social insurance system who have been unfit for work for more than three years. A person who suffers a two-third's reduction in his or her working or earning capacity, is deemed to be disabled. The degree of disability is not based on a quantitative scale, but on the insured person's residual working capacity, general state, age, physical and mental faculties, and suitability for occupational training. Invalidity pensions fall into two groups. 'First category' pensions compensate for loss of earnings of people presumed able to work but unable to earn more than one-third of their previous wage. 'Second and third category' pensions provide income replacement for people deemed totally unable to work.

The Disability Act of 30 June 1975 established the principle of benefits for persons who are not covered under other legislation, replacing various allowances previously paid as social assistance or by the family allowance offices. Two new means-tested benefits were created: the disabled adult allowance (AAH) and the compensation allowance. AAH is a minimum social allowance payable to adult disabled people. Payment is subject to a minimum disability level (80 per cent) or inability to obtain employment as a result of disability. The compensation allowance both provides a seriously disabled person with assistance from another person and compensates for excess costs incurred in connection with work. Payment is dependent on an 80 per cent incapacity for work.

Promotion of disabled access

In 1991 a new law included several measures to improve access to public establishments, workplaces and places of residence and education (law no. 91-663 of 13 July 1991). It extended the accessibility requirement to workplaces and offices with more than 20 employees. The law ensures that account is taken of all types of disability, not just motor impairment. Controls were imposed on the construction of public buildings.

Protection against discrimination

In 1990 a law was passed amending the penal code to protect people from discrimination on grounds of their state of health or their disability (law no. 90-602 of 12 July 1990). It applies to providers of goods and services and to employers. (Its application to employment is detailed in a later section.)

Evolution of disability employment policy and legislation

French disability employment policy and legislation has developed incrementally. Conventionally it has focussed on provision for specified groups of beneficiaries with a long-standing emphasis on employment obligations and 'quota' measures.

A brief history

Measures to favour the employment of certain groups of disabled people in France stem from World War I. Legislation in 1923 confirmed reserved positions in the public service for war-injured regular soldiers and in 1924 a ten per cent quota for disabled veterans was introduced in the private sector, applying to employers of at least ten staff. The law of 1924 also introduced the principle of reducing wages in line with work capacity (Velche and Ravaud, 1995). Provisions such as the right to free medical and vocational rehabilitation, initially provided for war-injured veterans, were extended in 1930 to people disabled through occupational injury but it was not until 1955 that the latter were included in the quota (up to maximum of three per cent) (Velche and Ravaud, 1995).

It was not until 1957 that a general law on the rehabilitation of disabled workers appeared. Under that law a 'disabled worker' meant 'a person who is substantially handicapped in obtaining or keeping employment as a result of a deficiency in or a diminution of his physical or mental powers' (article 1). The decision as to whether a person was a disabled worker was to be taken by a new committee, at département level, for the vocational guidance of disabled people. That committee classified a disabled worker in a prescribed category according to vocational qualifications and employment offered; a similar system is in force today.

The 1957 act laid the foundations for compulsory employment, a quota system for the private and public sectors, and reserved employment for particular categories of workers in certain occupational activities. There were no penalties for non-compliance. Employers were expected to conform to a laid-down procedure for notifying to the employment offices vacancies in reserved jobs or where the quota had not been obtained. If the employment office could not produce a candidate within eight days (later 15 days), the employer was free to engage any worker. In calculating whether the quota had been met, a weighting was attached to workers classified in different categories by the committee for vocational guidance.

The 1957 act also made provision for 'protected employment'. So-called 'light' jobs or half-time jobs were to be assigned by the vocational guidance committee to disabled workers who could not be employed at a normal rate of production or full time; the employment office was to carry out a census of such jobs. The act stated that disabled workers who could not be placed in normal employment could be admitted to (an existing) 'centre for the provision of assistance by employment' (CAT) or to a sheltered workshop or to a home-work distribution centre to be established by public bodies or private associations with public grants.

The 1957 act fell into disuse and was replaced by the provisions of the comprehensive act of 1975 in favour of disabled people. The 1975 act had a broad field of application relating to people of all ages and including education, social security and access to buildings as well as employment-related matters. It had a dual aim of concentrating the rights of disabled people within one act and of simplifying what had become a complex set of legislative measures. Although the law was restricted to people with a physical or a mental disability, and deliberately was not extended to people with 'social handicaps', it does not offer a definition of disability, which was felt to be almost impossible (Projet de loi d'orientation en faveur des personnes handicapées, 1975). Its guiding principle meant that meeting training and employment needs constitutes a 'national obligation' and that it falls to the state and all public and private bodies and groups to put this obligation into effect to ensure the maximum level of autonomy for each disabled person (article 1).

Most of the employment-related articles either modified existing institutions or extended existing provision. The département level vocational guidance committees were replaced by 'commissions techniques d'orientation et de reclassement professionnel' (COTOREP), staffed by multi-disciplinary teams. These commissions were given the competence to recognise disability and authorise the granting of all forms of benefit provided by the law (allowances and vocational guidance in specialist establishments). Statutes of sheltered workshops were modified to allow for home-work distribution centres and the role of the CAT was made more precise. Financial support for adaptation to workplaces and to access arrangements, previously available only in the private sector, was extended to public bodies.

New provisions under the 1975 act were: exemption from the employment obligation where a firm enters into contract with a CAT or sheltered workshop; measures to encourage trade apprenticeships; and the right of disabled people to a guaranteed minimum wage calculated on the basis of the minimum working wage (SMIC) in open and sheltered employment.

The 1975 measures failed to open up employment to people with more than light disability; employers tended to register their own employees who had suffered work injury, and local employment offices often failed to put forward disabled applicants to fill notified vacancies (Velche and Ravaud, 1995).

Law of 1987

Before outlining the provisions of the law of 1987 in favour of the employment of disabled workers, we note a number of historical features which remain in present-day legislation:

- obligations to war-disabled workers
- the recognition of disability by a commission
- the weighting of categories of disability
- compulsory employment with a percentage of workforce quota

- scope to meet part of the quota obligation by contracting with sheltered workshops
- the right to a minimum working wage in open and sheltered employment.

The law of 1987, nevertheless, was a radical reform in France and sought to influence the culture of employment. According to Schmitt (1995) the law sought to change an obligation to a social partnership. The move was underpinned by an increasing concern, supported by the trade unions among others, to improve the quality of life rather than just to secure minimum working conditions, with enterprises contributing to improving social well-being and thus enhancing their image in society.

The law of 10 July 1987 in favour of the employment of disabled workers imposed an enforceable obligation on public and private sector employers of at least 20 eligible staff to employ people defined as disabled by the law. The target they had to achieve, expressed in terms of a percentage of the total workforce, rose by a percentage point each year, beginning at three per cent in 1988 to reach six per cent in 1991. Weighting is accorded to disabled employees in certain categories, notably those who are more severely disabled. Contracting with sheltered workshops counts towards the target.

A novel feature of the new law was its aim of encouraging employers' and employees' organisations to formulate joint plans and agreements for the integration of disabled workers into their workforce. Such action counts as the equivalent of meeting the employment obligation.

Employers can chose to meet their employment obligations by contributing to a new fund in addition to or instead of employing disabled workers. The law established a new body, le fonds de développement pour l'insertion professionnelle des handicapés (a development fund for disabled workers' occupational integration), which came to be known as AGEFIPH, to disperse the voluntary contributions as grants and subsidies for training and employment. The first priorities are access and job retention. Funds may also be used for research and promoting attitudinal change, as well as for practical help such as support on the job, workplace alterations and specialist materials. Financial aid should complement, rather than substitute for, state or local authority measures. A range of organisations may receive funds, including professional, employers' and employees' organisations, agencies for employment and integration of disabled people, local authorities and employers including small employers not subject to the law. Funds may also be used to support individual disabled people.

Beneficiaries under the law were extended to include persons entitled to a pension under the general social security scheme or any other compulsory social insurance scheme.

The law marked two significant shifts in policy emphasis (Ravaud and Velche, 1992). The first is an inversion of normal legal practice: the obligation on employers comes before the naming of the beneficiaries in the law. The second is the prime place given to 'disabled workers' in the listing of categories of beneficiaries, rather than to the war-disabled. These breaks from legal tradition represent a significant shift away from a policy based on recognised debts due to victims of war or of society, towards one founded on the responsibility of 'economic actors' for the integration of disabled workers.

Recent developments

At the end of the transition period, when it was apparent that the employment obligation target would not be met, the ministers concerned set out a plan for further action (le plan emploi du 10 avril 1991) including:

- increase of financial assistance for integration into ordinary employment through giving disabled people priority in 'contrats emploi-solidarité', and through priority in contracts for return to work (see below)
- improvements in training facilities to enhance disabled people's qualifications
- re-examing the meymethods of working of COTOREP, to eradicate dysfunctional elements in the system, and facilitating access to employment agencies

- facilitating transition from sheltered to open employment, including improving levels of remuneration in sheltered workshops
- increasing the effectiveness of AGEFIPH in the redistribution of funds to encourage and support employment, notably by an extensive information campaign, aimed at recipients.

There have been modifications to the law of 1987. Decree no. 92-1064 of 1 October 1992 increased the weighting of selected categories of severely disabled workers and people leaving sheltered employment and training. It also provides that all beneficiaries of the law will count for at least two (rather than at least one) units in the year in which they are taken on and the following year. Decree no. 92-1192 of 5 November 1992 simplified the conditions for partial exemption from the employment obligation through contracts with sheltered work establishments.

Policy-making and service delivery

Policy co-ordination

To promote coherent action across ministries in 1995 an inter-ministerial representative for disabled people was nominated and charged with taking forward CICAR (an interministerial co-ordination committee which is expected to meet three times a year).

Consultation

The National Consultative Council for Disabled Persons, set up in 1976, has to be consulted about all measures taken by the public authorities. Represented on the Council are the competent authorities, associations of and for disabled persons, associations and unions representing employers and employees, and the relevant research and study organisations.

Employment Delegation

Set up in 1975, the Employment Delegation is one of the four directorates of the Ministry of Labour. It manages various networks including the External Services for Labour and Employment (Regional and Departmental Directorates for Labour, Employment and Vocational Training), the National Employment Agency (ANPE) and the Association for Adult Vocational Training (AFPA). Its task is to promote employment policy. Its areas of activity include integration or re-integration and training of jobseekers, particularly people in difficulty such as young people, women, long-term unemployed and disabled people.

National employment agency (ANPE)

ANPE assists persons who are looking for a job, training or vocational advice and assists employers with the hiring of personnel or the redeployment of their employees. It also manages a register of jobseekers and compiles statistics. ANPE plays a central part in strategies to bring down unemployment, as over 90 per cent of the unemployed use the public employment service as the main means of job search (European Commission, 1996).

Agreements can be concluded between ANPE and public institutions, bodies jointly run by employers' and trade union organisations, as well as the organisations of or for disabled people. These agreements provide for their representation on ANPE's decision-making or consultative authorities, ensure the co-ordination or joint use of the networks of facilities, and determine, if necessary, the respective contribution of ANPE and those bodies to the reception of jobseekers and the provision of information and guidance to them. ANPE has signed 500 placement agreements and many collaboration agreements, as well as other partnership agreements with various bodies. It has also concluded increasing numbers of framework agreements (40 in 1996, compared with nine in 1992) with the professional sectors and large scale enterprises for the training and integration of jobseekers.

ANPE oversees the legislation in favour of disabled workers and of other State measures to promote their employment. Every local employment office is responsible for supporting and placing disabled workers in its own area. At département level there is a part-time or full-time special employment counsellor for disabled people (CSTH - Conseiller d'emploi spécialisé travailleurs handicapés). They participate in the work of COTOREP.

Association for adult vocational training (AFPA)

AFPA was created in January 1966. The Minister sets its general directions. It has several duties:

- to train skilled manpower in various branches of the economy
- to facilitate the retraining of unemployed workers or those threatened with redundancy
- to intervene in favour of the least favoured groups, young jobseekers and foreign workers
- to contribute to the development of further training.

AFPA is responsible, inter alia, for 131 training centres and 47 additional centres which train apprentices, to whom they normally also provide board and lodging.

AGEFIPH

AGEFIPH was founded under the law of July 1987 and become operational in 1989. It was set up to manage and disperse the voluntary contributions from employers who choose to meet their employment obligation in that way. The Fund is managed by a national private association. Its Board of Directors comprises representatives of trades unions, employers' organisations, national organisations of disabled people and others appointed by those bodies and by the State. The Ministry of Labour approves the programme and budget but policy responsibility rests with the Board of Directors.

AGEFIPH works exclusively with private sector companies and government-run bodies subject to private law. It is meant to complement state assistance. ANPE has concluded a co-operation agreement with AGEFIPH according to which the two bodies will combine their efforts within the spheres of integration aid, financial support for training measures, schemes to increase awareness in enterprises and implementation of research.

COTOREP

In each département there is a Commission Technique d'Orientation et de Reclassement Professionnel (COTOREP). All enquiries and applications relating to employment, training and financial and social assistance for disabled adults are submitted to COTOREP which is empowered to make decisions in these areas. COTOREP confers the status of 'disabled worker' and guides disabled people towards training and open or sheltered employment.

COTOREP comprises:

- a permanent secretariat charged with accepting and registering applications
- a technical team of specialists (doctors, psychologists, social workers and placement officers) who handle the applications
- the actual Commission which decides on counselling measures and the allocation of aids and allowances

(MISEP, 1996).

Members of the Commissions represent different administrative bodies and include parents' organisations, disabled people's organisations and directors of institutions.

Preparation and follow up teams

Working in collaboration with ANPE and COTOREP there are 136 specialist teams (EPSR and OIP) for the

guidance and placement of disabled people seeking (re)employment.

DEFINITIONS OF DISABILITY

There is no general legislative definition of disability. People are classified as disabled according to differing criteria depending on the benefits or services they are claiming. The labour code (article L323-10) defines a disabled worker as a person whose chances of obtaining or retaining a job in normal employment are effectively restricted because of insufficient or reduced physical or mental capacity.

STATISTICS

At March 1994, the working age population was 46.123 million; 25.137 million people were in the labour force; the activity rate was 54.5 per cent; and the unemployment rate 12.4 per cent (MISEP, 1996).

Unemployment and disabled people

In the first half of the 1990s there has been a significant fall in the demand for labour. (Between 1991 and the end of 1993, almost one in 20 non-agricultural jobs disappeared.) The unemployment rate fell in 1996 for the first time in the 1990s (to 11.5 per cent) but the share of long-term unemployment rose to 40 per cent in that year. Disabled people have been hit by the falling demand for labour and high unemployment and the increase in the number of disabled people among the unemployed has been greater than that for jobseekers as a whole.

The average period of unemployment is very long (587 days) and is closely related to severity of disability; half of the disabled but only one-third of all jobseekers have a low level of qualification; unemployed disabled people are older than average (European Commission, 1996). In December 1995 there were 120,000 'category 1' unemployed disabled people (actively seeking long-term, full-time work and immediately available for work). In March 1994 the corresponding figure was 80,000, having increased by 27 per cent in the year from March 1993 (Velche, 1995).

Disabled people in employment

Recent information about employed disabled people is available only for those in private sector establishments with over 20 staff subject to the law of 1987 in favour of disabled people. Detailed information is presented in a report on the application of the law of 1987 in 1994 (Ministry of Labour and Social Affairs, 1996). In 1994, 248,000 were employed. Half worked in the industrial sector and two-fifths in the service sector. Over 70 per cent were aged over 40 and three-quarters of the total were men.

It is not possible to summarise the types or extent of disability because of the different ways of categorising disabled employees in the French system. In 1994, 46 per cent were people who had suffered work-related injury or disease and 30 per cent of the total were classified as moderately or severely disabled.

In the public sector in 1990 a total 96,000 disabled employees covered by the law were recorded for the state and hospital sectors but accurate figures could not be achieved for the regionalised and local authorities.

In 1992 there were an estimated 88,600 workers in sheltered work.

EMPLOYMENT SUPPORT SERVICES

Assessment

Many guidance, training and placement services are open only to disabled workers who have been recognised as such by COTOREP. COTOREP committees have a wide range of responsibilities towards disabled adults. Their general aim is to assess needs for employment, training, and financial and social assistance. They have two branches. One measures disability for the purposes of awarding benefits and for referral of people totally unable to work. The other branch is concerned with vocational integration. Here, the first task of the COTOREP is to measure disability for work and assign a person to a category A, B or C. (Blind and severely visually impaired people, for example, are assigned to category C.) After classification, COTOREP directs disabled people towards guidance or training, placement in employment or sheltered work.

By the late 1980s, COTOREP organisation and procedures had been widely criticised, notably for the concentration on disability (rather than on ability) and reliance on medical criteria, the lack of fit between disabled people's training and sheltered employment needs and preferences and places available, and for procedural delays and duplication (cited by Samoy, 1992). FNATH (n.d.) criticised COTOREP on four counts: intervention came too late in the progression of the disability and once the job is lost; the one-off assessment was too cursory; the stages of preparation before the chance of employment were unnecessary and led to eventual unemployment; and there was too much attention to administrative procedures and a lack of defined objectives. COTOREP operations were reformed in 1994.

The performance of COTOREP, as measured by numbers assessed and assisted in training or employment, has improved markedly in recent years. Table Fr.1 shows the numbers classified A, B and C and the numbers refused classification in 1987, 1993 and 1995.

Schmitt (1995) notes that some people not previously registered with COTOREP have been encouraged by their employers to do so as a result of the quota system introduced with the law of 1987.

Table Fr.1 COTOREP classifications, selected years

	1987	1993	1995
A	12,431	18,355	31,276
B	35,350	48,920	75,277
C	26,972	32,052	49,568
Refusal	7,532	8,110	15,056
Total	82,27	107,437	168,680

Source: Ministry of Labour and Social Affairs, 1996

In 1995, 47 per cent of COTOREP decisions related to open employment, compared with 45 per cent in 1987, and 39 per cent related to sheltered employment, compared with 34 per cent in 1987. The proportion of decisions relating to training has declined to 14 per cent in 1995 from 21 per cent in 1987. It is noted that, despite the demand for training and the law of 1987, COTOREP has a tendency to favour sheltered employment (Ministry of Labour and Social Affairs, 1996).

Guidance and training

The law of 1975 provided for the creation of public or private initial guidance centres, supervised by the Ministry of Labour. On the recommendation of COTOREP they take workers for stays of up to 12 weeks. Afterwards, a detailed report on the person's prospects is sent to COTOREP for action. In 1995, COTOREP recommended initial guidance in 4,227 cases (3.9 per cent of all decisions).

Training is provided through mainstream training centres or a range of public and private centres for vocational rehabilitation and training of disabled people. There are 77 specialist centres (CRP) supervised by AFPA with a capacity of 9,500 places. People can stay for courses of one or two years. In 1995, COTOREP recommended CRP in 8,559 cases (eight per cent of all its decisions). There are also ten general vocational training centres. Schmitt (1995) comments that despite the legal right to mainstream training, many opportunities have been inaccessible to people with mobility or sensory impairments and that many CRP have long waiting lists.

The 'employment plan' of 10 April 1991 identified training as an area for improvement and encouraged training organisations to open up to disabled people, with an increase of more than one-quarter in the fee paid by the state. A census of training organisations able to take disabled people was being undertaken. As a result of this shift in emphasis, 4,000 disabled people were enrolled in mainstream training centres run by AFPA in 1995.

Trainees and training facilities receive financial support through ANPE and AGEFIPH. About one-third of AGEFIPH's funds (excluding recruitment premiums) are devoted to employment preparation measures. Between 1990 and 1995 more than 10,000 disabled people benefited from co-funded training and vocational integration courses. The agreement signed in 1992 between AGEFIPH and APTA has also led to an expansion of provision. AGEFIPH has established, through agreements with regional councils, a regional training scheme, including apprenticeship training, for disabled people, mainly open to unemployed people and available through training agencies.

Placement

ANPE

ANPE has at département level a special employment counsellor (CSTH) who devotes all or part of his or her time to the vocational integration or reintegration of disabled workers. The CSTH works with disabled jobseekers, with employers and with partners in the field, notably COTOREP. At the local level, the agency's staff advise disabled workers of their rights and possible openings, inform companies of their duties and of schemes to help them hire disabled workers, and match vacancies and disabled workers (MISEP, 1996). ANPE's guidance and placement services for disabled people at département level were restructured and co-ordinated in 1994.

Associations

The voluntary associations, through agreements with ANPE, play a notable part in facilitating resettlement of workers who become disabled and in placement in first-time employment, maintaining links between employers, statutory agencies and sheltered employment. These include AFP (Association of People who are Paralysed) and LADAPT (League for the Adaptation to Work of People who are Physically Disabled). One agreement is with GIRPEH (regional groups for the promotion of employment of disabled people). Unlike most associations, which grew out of medical or family circles, GIRPEH were created through the initiative of private firms and bring together employers' representatives, unions and experts. The agreement between ANPE and GIREH focuses on aid for integration, financing of training measures, schemes to educate and increase awareness among employers and implementation of research (MISEP, 1996).

EPSR and OIP

In January 1996, there were 106 teams for rehabilitation, preparation and follow-up in employment (EPSR) which work in liaison with COTOREP and ANPE. They bring together the social workers of several administrations into teams of four. EPSR assist the disabled person through the rehabilitation period, seek out potential employers and make periodic post-employment checks. These teams, which can be public or private, were slow to become established but the 'employment plan' of April 1991 took the necessary financial steps to ensure coverage of the entire country at the end of 1992. Three-fifths of the EPSR are privately run.

A new structure, OIP (Organisme d'insertion et de placement), was instituted in 1994 to reinforce the EPSR. In 1995, 30 OIP were agreed, the great majority of which already existed as placement organisations. An agreement was reached between AGEFIPH and the State in February 1994 concerning EPSR and OIP. In the first full year of operation under the agreement, 18,000 placements were made by EPSR and OIP, considered to be a very positive result (Ministry of Labour and Social Affairs, 1996).

Co-ordination

Progressive action has been taken since 1992 to co-ordinate the activities of the different actors responsible for promoting disabled people's employment opportunities, through 'integration plans' at département level. The main outcomes sought are:

- to reach the six per cent employment target set by the law of 1987
- to reduce the number of long-term unemployed
- to sustain employment and promote renewal of jobs at risk
- to reduce delays in COTOREP decisions and improve their fit with people's needs.

In 1995, a programme was in place in 70 of the 100 départements. Encouraging results from the pilot projects launched in 1992 in 20 départements include a 50 per cent increase between 1992 and 1993 in the number of 'actions' taken to benefit disabled people (a disabled person may benefit from more than one 'action'). Of the actions recorded in those 20 départements in 1993 almost half related to placement under one of the State-subsidised job creation schemes.

OPEN EMPLOYMENT: LEGAL OBLIGATIONS AND RIGHTS

The law of 1987

The main aims of the law of 1987 in favour of disabled workers were to:

- move from a system which relied on procedural obligations to one which required evidence of results and, accordingly, to achieve a set target
- extend employment obligations to the whole of the public sector, in the expectation that the State will set an example
 - encourage open employment of seriously disabled people and other disadvantaged groups such as young people and older people
- bring employment of disabled people into the field of labour contractual policy
- redistribute resources from those enterprises which may have difficulty meeting their employment obligations towards disabled workers and their employers, notably small organisations which fall outside the law
- encourage the development and the status of sheltered employment and its workers via contractual relationships between employers and sheltered workshops.

The employment obligation

The law requires every private and public employer employing at least 20 employees to employ, on a full-time or a part-time basis, disabled persons covered by the law so that they proportionately represent six per cent of the total number of employees. The six per cent obligation did not come into immediate effect; rather, the required percentage rose over a three year transitional period from three per cent in 1988 to four per cent in 1989 and to five per cent in 1990.

For enterprises comprising more than one establishment, the employment obligation applies to each establishment. 'Enterprises' include semi-public bodies (28 when the law was introduced) such as public utilities, railways, toll-road companies and national radio and television companies.

The law exempts certain occupations in the private and semi-public sector from the calculation of the total workforce. A total of 33 different categories is listed by decree, according to a system of occupational classification. Summarising, there are two over-arching categories:

people who drive, navigate or travel on board as their occupation (civil aviators, merchant marines and officers, ambulancemen, firemen, conductors, guards and hostesses, heavy vehicle drivers); and
qualified, and in several instances unqualified, workers in jobs which involve physical labour (mining, building, construction, wood-working, masonry, dock-work, fishing)

The list also includes sales people for large stores. In 1994, excluded occupations represented ten per cent of the workforce of firms making a declaration and exceeded the figures projected by the national statistical institute. The list has been criticised for deviating from the proposals which preceded the law (La Revue de l'APAJH, 1992).

Beneficiaries under the law

The compulsory employment obligations on private and semi-public enterprises cover the following main categories of workers:

workers recognised as disabled by COTOREP

persons with an occupational injury or disease which has led to permanent incapacity of at least ten per cent

persons entitled to an invalidity pension under the general social security scheme, any other compulsory

social insurance scheme or provisions governing public servants, where the invalidity has reduced by at least two-thirds the person's capacity to work or to earn a living

war veterans (and similar) entitled to a military invalidity pension.

The beneficiaries for employment in the public sector (the offices of state, the state hospitals and the decentralised public and local authorities) are different from in the private sector, in part because of legal arrangements for the retention of staff who become disabled, and in part because of a different temporary invalidity allowance entitlement for public servants.

Weighting of beneficiaries

For the purposes of calculating fulfilment of the employment obligation by private sector and semi-public sector employers, certain categories of disabled employees are counted as if they were one-and-a-half, two or two-and-a-half individuals. The system is intended to privilege the employment of: severely disabled people; young people; older people; those pursuing training at the employing organisation; and those engaged on leaving a sheltered workshop, CAT or a vocational training centre. Thus, it is the sum of 'beneficiary units' (UBP) that matters, not just the total number of individual disabled workers. In the public sector there is no weighting and therefore no UBP.

Some weightings were increased by decree in October 1992. That decree made another significant change: all beneficiaries now count for at least two units in the year in which they were engaged and in the following year. The weightings are shown in Table Fr.2.

Table Fr.2: Weighting under the law of 1987

Category	1991	1992
Disabled workers recognised by COTOREP		
under 25 years	+ .5	+ .5
over 50 years	+ .5	+ .5
disability category B	+ .5	+ .5
disability category C	+ 1.0	+ 1.5
in-firm training of 500+ hours	+ .5	+ .5
engaged fromsheltered workshops/ (CAT)vocational training centre (first two years only)	+ .5	+ 1.0
Victims of occupational disease or accident at work		
permanent incapacity of 66.6% to 85%	+ .5	+ .5
more than 85%	+ 1.0	+ 1.5
All recruits in the first two years	-	+ 1.0

Fulfilment of the employment obligation

Enterprises may fulfil their employment obligation by:
 direct employment of beneficiaries under the law
 contracting with the sheltered employment sector
 reaching accords to promote employment of disabled people
 paying a contribution to AGEFIPH.

The proportion of establishments which attained the six per cent quota solely through direct employment has remained fairly stable at 35 per cent in 1994, compared with 37 per cent in 1993. Table Fr.3 shows the alternative means used from 1992 to 1994.

Table Fr.3 Alternative means of meeting the employment obligation, 1992-94

Means	1992	1993	1994
Sub-contracts only	12.2	11.6	12.4
Payment of levy only	65.9	64.6	62.8
Sub-contracts + levies	17.8	19.0	19.8
Sub-contracts + accords	1.1	1.3	1.7
Levies + accords	0.5	0.5	0.5
Sub-contracts + levies + accords	0.3	0.4	0.4

Source: Ministry of Labour and Social Affairs, 1996

Direct employment

In the three transition years and up to 1994, the number of disabled employees declared by private sector and semi-public employers has constantly represented three per cent of their total workforce.

According to the legally required method for judging the proportion of beneficiary units (that is, weighted according to categories) to the adjusted workforce (that is, once exempted occupations are removed from the total) the level attained in 1991 was 3.76 per cent, compared with 3.72 per cent in 1990 and 3.58 per cent in 1989. (In 1988 only employers with at least 34 (equivalent) staff and in 1989 only those with at least 25 made returns.) This percentage has continued to rise and stood at 4.11 per cent in 1994. It should be noted that the beneficiary units increased in 1992 and

Table Fr.4 Employment of disabled workers 1988-94

	1988	1989	1990	1991	1992	1993	1994
Employment obligation	3.0%	4.0%	5.0%	6.0%	6.0%	6.0%	6.0%
Threshold	34 staff	25 staff	20 staff	20 staff	20 staff	20 staff	20 staff
No. of establishments under the law	52,600	74,100	87,800	88,000	89,000	85,500	85,000
Total workforce	7,356,000	7,987,000	8,518,000	8,539,600	8,411,000	8,167,200	8,500,000
No. of disabled declared	223,800	235,900	256,300	258,000	254,700	254,500	247,900
% disabled employed	3.0%	3.0%	3.0%	3.0%	3.0%	3.1%	3.0%
Adjusted workforce	6,777,600	7,398,900	7,885,900	7,903,200	7,768,100	7,649,600	7,650,000
Beneficiary units	-	264,700	293,600	296,900	310,200	310,600	311,000
% effective under the law	-	3.58%	3.72%	3.76%	3.99%	4.06%	4.11%

Sources: Ministry of Labour, Employment and Training, 1993; Ministry of Labour and Social Affairs, 1996

subsequent years because of changes in the system of weighting. Table Fr.4 gives figures for the transition period and for the years 1991 to 1994 based on the two methods of calculation.

In 1994, 36 per cent of establishments met or exceeded the six per cent target; 27 per cent employed at least one disabled worker; and 37 per cent employed none. These proportions are almost identical to those in 1991.

There is some variation according to size of establishment. In 1994, establishments with over 500 employees and with between 50 and 99 achieved the highest proportions (4.7 and 4.5 per cent respectively); however, in 1993 those with between 20 and 49 achieved a rate of 4.5 per cent which dropped to 3.4 per cent in 1994.

By 1994, construction industries had exceeded the quota (6.5 overall), with 60 per cent of individual establishments attaining or exceeding the six per cent quota. Establishments in other sectors lagged behind, notably in the financial, commercial and service sectors. However, construction industries have higher proportions of exempt jobs.

Contracts with sheltered workshops

Both private sector employers and the public sector may partially fulfil their employment obligation by concluding supply or service contracts with sheltered workshops, CAT or home-work distribution centres. This type of provision already existed under the law of 1975; Schmitt (1995) comments that, from the perspective of sheltered workshops, the law promised no real improvements as most already had such contracts. The objective is to strengthen the development of sheltered work and, presumably, to convince employers of the employment potential of sheltered employees. In the private sector there has been a growth in contracts with sheltered work, as shown in Table Fr.5.

There has been some progression in the number of beneficiary units achieved through contracts with sheltered workshops: 18,780 in 1994, compared with 17,654 in 1993 and 14,100 in 1992. The equivalence figures for contracts with sheltered workshops in 1991 were 10,000 beneficiary units. In terms of meeting the employment obligation target these contracts represented only 0.1 per cent in the private sector in 1991.

Table Fr.5 Contracts with sheltered work, by year

Year	No. of establishments	%
1988	6,900	13.1
1989	10,800	14.6
1990	13,600	15.5
1991	15,400	17.0
1992	17,400	20.0
1993	17,400	20.4
1994	18,100	21.3

In 1990 and 1991, 30 per cent and 23 per cent respectively of establishments contracting with sheltered work had already achieved their targets. In 1990, 32 per cent of firms with contracts had no disabled employees, rising to 36 per cent in 1991; in 1994 the proportion was also 36 per cent.

The larger the organisation, the more likely it was to have a sheltered work contract: in 1992, 47 per cent of firms with more than 200 employees had a contract, but only 13 per cent of those with between 20 and 24 employees. Of the 15,400 establishments contracting with sheltered workshops in 1991, half were in the industrial sector, 2,900 were in trade and 2,600 in commerce; the increase in 1992 was mainly attributable to those last sectors (Velche and Ravaud, 1995).

In the public sector in 1990, contracts with sheltered work represented only 0.043 per cent for the State; almost all the equivalent beneficiaries were earned by two departments (PTE and Defence). The Annual Report for 1990 comments on the difficulties for some departments of lack of proximity to sheltered work outlets. In 1991, the equivalent percentage rose very slightly and stood at 0.053 per cent. On the basis of a very low response from the sample of hospitals approached for the purposes of the 1990 Annual Report, contracts with sheltered work represent 0.1 per cent equivalent beneficiaries for the hospital sector.

Accords

One of the objectives of the law of 1987 was to bring vocational integration of disabled people into the economic domain.

Accords have the potential for impact on the workplace and on attitudes to the employment of disabled people. Private and semi-public (but not public) sector employers may fulfil their employment obligation by reaching and applying an accord, negotiated between employers and employees' associations, aimed at the integration of disabled workers. Accords are a traditional means of planned agreement between the two sides of industry in France.

The accord should set out a comprehensive plan for at least two of the following actions: recruitment; integration and training; adjustment to technological change; retention of the employment relationship in the event of redundancy (MISEP, 1996). The scope of plans can be fairly broad, covering, for example, integration into the social life of the firm or company and training for workers who have left the firm.

The accord must be agreed by the appropriate administrative authority. Accords may be agreed at the level of the company as a whole (enterprise), at the level of an organisation within the company (establishment) or at sectoral ('branche') level. Almost all the accords have been agreed by large conglomerates, mostly with national coverage. Most were for several years at a time. The Annual Report from the Ministry of Labour and Employment for 1991 reported 63 accords actually in force. In 1992 there were 1,300 establishments covered by the 70 accords in force (1,000 in 1991); approximately a quarter of the enterprises involved employed 6 per cent or more disabled workers (Velche and Ravaud, 1995). In 1994, 70 accords covered 1,700 enterprises (MISEP, 1996). Similar numbers of accords were signed in 1993 and 1994 (44 and 42).

The annual reports illustrate accords agreed. A 'branche' accord, involving 110,000 staff, was signed in the insurance sector in 1990, but not renewed in 1993. A 'branche' accord, covering more than 1,690 establishments and lasting five years, was signed in 1991 by the not-for-profit 'Fédération des établissements hospitaliers et d'assistance privés'; this planned to recruit 1,000 disabled workers. Another accord with the 'Banque Populaires' group came into force in January 1993 for three years; at the end of 1995, 18 of the 44 enterprises in the group had exceeded the six per cent proportion of beneficiaries, compared with eight enterprises at the end of 1993 and, with two exceptions, all had maintained or exceeded their target proportion of beneficiaries.

One large company (Trois Suisses) set up a new telephone sales service to be staffed by disabled people previously in sheltered employment. Others plan ways of integrating disabled people into the workforce by planned induction, job trials, support at work and so on. Training plans have been adapted to meet the needs of existing disabled employees, and internal training arrangements have been opened to disabled workers from outside. Pilot initiatives have made links with higher education.

Voluntary contributions

Employers in the private and semi-public sectors may fulfil their obligations, in full or in part, by contributing voluntarily to the fund for the vocational integration of disabled people (AGEFIPH). Employers pay an annual amount for each disabled person they should have employed. By law, the contribution should not exceed 500 times the hourly statutory minimum wage (SMIC) and is set according to the size of employing body as follows:

from 20 to 199 staff 300 x SMIC
 from 200 to 749 staff 400 x SMIC
 more than 750 staff 500 x SMIC

This provision recognised the economic constraints facing some enterprises. The policy intention behind voluntary contributions was to allow those employers not themselves in a position to recruit, train or generally foster the employment of disabled workers to discharge their obligations by a financial contribution. The principle is one of redistribution; the money collected is distributed by AGEFIPH to aid the vocational integration of disabled people in enterprises which are able to pursue that aim. Velche and Ravaud (1995) comment that, in the spirit of the law, a voluntary contribution was meant to be more of a last resort. There has been some astonishment expressed by disability organisations at the extent to which employers have opted for this means of meeting their obligations.

Table Fr.6 shows the numbers of establishments contributing to AGEFIPH from 1988 to 1995. In 1995 49 per cent of establishments subject to the employment obligation made voluntary contributions.

Table Fr.6 Contributions to AGEFIPH

Year	Establishments contributing	Amount(FF million)
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1988	15,056	317
1989	17,786	315
1990	27,397	637
1991	40,585	1,183
1992	43,477	1,652
1993	42,685	1,613
1994	41,520	1,564
1995	41,812	1,593

Source: AGEFIPH Rapport d'Activité 1995

Recourse to voluntary contributions is related to the size of establishment. In 1992, 48 per cent of those with less than 50 staff; 57 per cent with between 50 and 199 staff; 65 per cent with 200 to 499 staff; and 52 per cent with 500 and more staff paid voluntary contributions. Use of this option by the last category fell substantially from 68 per cent in 1991 as more met the six per cent target (Velche and Ravaud, 1995).

Table Fr.7 shows the number of contributing establishments in each size category in 1995. More than half of the establishments making voluntary contributions had fewer than 50 staff.

Table Fr.7 Contributing establishments by number of employees, 1994

No. of employees	No. of establishments
20 - 49	23,891
50 - 99	9,221
100 - 199	5,069
200 - 499	2,715
500 and over	177
Total	41,812

Source: AGEFIPH Rapport d'Activité 1995

Two-thirds of firms making a voluntary contribution in 1990 employed no disabled people; and three-quarters of those with less than 50 staff had no disabled employees. By 1991, the proportion of firms making a voluntary contribution and employing no disabled staff had dropped to 60 per cent. The report on the execution of the law in 1994 reports that of the 44,100 establishments subject to voluntary contributions three-quarters met their obligation in no other way.

Public sector

Data for the public sector are available to us only from the minister's Annual Report to Parliament for 1990 and from the 1991 report for central government. The position may have changed since that time.

The public sector has three offices, the State (central government), public hospitals, and decentralised and local authorities ('collectivités territoriales'). All three report separately. The public sector employment obligations under the law of 1987 consist of meeting the quota calculated as a percentage of total staff,

without any weighting of categories of disabled people or exempt occupations. The percentage of total staff can be augmented by a percentage of 'equivalent' disabled staff, earned by entering contracts with sheltered workshops.

In 1990 the State, hospitals and collectivités territoriales reported 3.38 per cent, 4.8 per cent and 4.1 per cent respectively, including a very small equivalent percentage for contracts with sheltered workshops. The 1990 figure was lower than the return for 1989 (3.8 per cent). In 1991 the proportion dropped to 3.2 per cent. Returns from the 18 ministries (and public establishments) varied from 0.1 per cent to 6.8 per cent in 1990. Four ministries exceeded the five per cent target in 1990 and the six per cent target in 1991. The total civil staff in the state sector in 1990 was 2,343,740.

Hospital sector figures for 1990 were obtained by representative sample, adjusted to take account of a 83 per cent response rate. This method produced a rate of 4.7 per cent (the percentage is augmented by a further 0.1 per cent for contracts) based on a total staff of 377,702.

The returns from the collectivités territoriales are categorised as regions, départements, communes and other organisations. Because of the extreme diversity of these organisations the data presented are unlikely to be exact and the 1990 report acknowledges important lacunae in the sample information collected for 1988 and 1989. The 1990 enquiry was designed to fill some of those gaps and, accordingly, 1990 data are not strictly comparable with 1989 and 1988 data. Despite attempts to improve the returns, the level and quality of responses were still very poor in 1990: only 60 per cent of the 4,624 collectivités approached replied; and the returns showed considerable confusion about the scope of the exercise and the categorisation of beneficiaries. The report pointed out the difficulties facing the collectivités, notably the lack of basic information about the characteristics of staff. The report also noted the unwillingness of certain local authorities to keep individual files.

We should bear in mind those problems when noting an overall return for the collectivités of 4.10 per cent (including contracts) in 1990. The variation in percentages obtained was extreme. For the regions the percentage obtained was 1.84 per cent; the report explained that regions were recently created bodies with specialist staff. The départements produced 1.31 per cent on aggregate. As far as the communes are concerned, in all they achieved 4.05 per cent. A broad range of bodies is grouped under 'other organisations' giving an overall rate of 4.05 per cent.

In contrast to the report from the state departments, the report for the collectivités territoriales offered comments on the situation. It noted the rigidity of public service and the lack of margin for manoeuvre. It also referred to the impossibility of obliging a member of staff who does not wish to be officially recognised as disabled, noting a political objection to such action. The report suggested that those large towns which may have refused to respond on principle may in fact have percentages of disabled employees which exceed the six per cent quota.

Recruitment and severely disabled people

The number of disabled people recruited each year rose from 8,000 in 1989 to 9,400 in 1991, a rise of 18 per cent in two years, although the level remained stable between 1990 and 1991. This is a very small proportion (3.6 per cent in 1991) of the total recorded disabled employees. The government emphasised recruitment by increasing the weighting (to at least two beneficiary units) for the year of recruitment and the following year. In 1994, there were 9,900 new recruits, a rise from 8,400 in 1993.

One of the aims of the law was to encourage the employment of severely disabled people through the system of weighting when calculating beneficiary units. The weighting according to severity of disability applied only to two of the four categories of beneficiary; that is, to certain people recognised as disabled by COTOREP and to certain people disabled by occupational accident or disease. Table Fr.8 applies to disabled workers in the private and semi-public sector.

In order to identify the numbers of severely disabled people recorded we need to look more closely at the numbers falling into sub-categories devised according to assessed degree of disability.

The proportion of employees falling into COTOREP groups B and C has increased steadily from 67 per cent in 1990 to 76 per cent in 1994. Nearly three-quarters of disabled people recruited in 1990 and in 1991 were recognised by COTOREP; by 1994 the proportion of new recruits recognised by COTOREP had increased to 86 per cent.

The intention of the law also was to encourage the employment of people recognised as disabled by COTOREP aged under 25 and 50 and over.

Table Fr.8 Beneficiaries by status and year

Category	1988	1989	1990	1991	1992	1993	1994
Recognised by COTOREP	65,000 29.0%	70,500 29.9%	82,100 32.0%	84,900 32.9%	89,400 35.1%	91,300 35.9%	99,200 40.0%
Occupational accident/disease	131,000 58.5%	133,000 56.8%	140,300 54.7%	36,600 53.0%	129,900 51.1%	130,200 51.1%	114,100 46%
Invalidity pensioners	15,000 6.7%	16,900 7.2%	19,300 7.5%	22,200 8.6%	22,800 9.0%	22,300 8.8%	24,800 10.0%
War disabled and similar	13,000 6.1%	14,500 5.7%	14,600 5.5%	14,300 4.9%	12,600 4.9%	10,700 4.2%	9,900 4.0%
Total	224,000	235,900	256,300	58,000	240,700	254,500	247,900

Sources: Ministry of Labour, Employment and Training (1993); Ministry of Labour and Social Affairs (1996)

Table Fr.9 Classification of severity of disability

Category	1988%	1989%	1990%	1991%	1992%	1994%
COTOREP						
A (light)	39.0	33.3	32.7	28.7	27.3	25.0
B (moderate)	41.0	47.7	47.6	49.9	50.5	54.0
C (severe)	20.0	19.0	19.7	21.3	22.1	22.0
Occupationally disabled						
IPP = 10% - 66.6%	96.2	97.2	96.9	96.9	97.1	98.0
IPP = 66.6% - 85%	3.2	2.2	2.4	2.5	2.4	-
IPP = >85%	0.6	0.6	0.6	0.6	0.6	-

Approximately 30 per cent of people recognised by COTOREP fell into these two age groups in 1990 and 1991.

The law also gave special attention to the employment of people recognised by COTOREP following occupational training at the workplace (of at least 500 hours). In 1990, only 1,100 people fell into this

category, and in 1991 only 1,000.

Finally, the law intended to encourage people to be taken on in open employment from sheltered work: only 1,700 were recorded in 1990 and 1,600 in 1991.

Penalties

Penalties should be paid to the Public Treasury by employers who do not meet any of their employment obligations. These are equal to the sum which should have been contributed to AGEFIPH, plus 25 per cent.

According to the report for 1994, just over 4,000 establishments were liable for penalties, a small reduction on the 1992-93 figure, compared with 7,600 in 1992. In 1994, 2,776 penalties were applied, compared with 2,189 in 1993, 1,554 in 1992 and 1764 in 1991. However, enforcement by some départements remains weak. The sum of the penalties remains fairly static at FF 69.3 million in 1994. Velche and Ravaud (1995) note an average of FF 42,200 for each penalised enterprise in 1992.

Control mechanisms

The law introduced mechanisms for control or supervision of its implementation. Associations for the defence of disabled people's interests may bring civil action in case of non-observation of the law. Executive control is enforced for the private sector through an obligatory annual report by each firm to the employment office at département level and for the public sector through the appropriate Conseil Supérieur. In addition, political control is possible through reports to Parliament by the Minister for Employment.

Protection against discrimination

In 1990 a law was passed concerning the protection of individuals against discrimination on grounds of their state of health or their disability ('handicap' in French) (law no. 90-602 of 12 July 1990). The law amended the Penal Code which already covered discrimination based on origin, sex, customs, marital status, ethnicity, nationality, race or origin. Discrimination is defined by article 225-1 of the new Penal Code as all distinctions made between persons on those existing grounds and on grounds of state of health or disability.

Discriminatory behaviour is a criminal offence and may result in a prison sentence of two years and a fine of FF 200,000 when it consists of:

1. refusing to provide a good or service;
2. hindering the normal exercise of any economic activity;
3. refusing to employ a person, or sanctioning or dismissing a person;
4. subjecting the provision of a good or service to a condition based on one of the grounds in article 225-1;
5. subjecting an offer of employment to a condition based on one of the grounds referred to in article 225-1.

(Taken from Waddington, 1996, p.94)

The Code's application in case of refusal to employ is limited by article 225-3 which states that discrimination based on state of health or disability does not apply when refusal to engage or register is based on medically proven lack of aptitude (as established by the labour office doctor). The Code makes no clear provision for establishing when discrimination on grounds of disability has occurred (Waddington, 1996; Verkindt, 1997).

Verkindt (1997) reports that the law of 12 July 1990 was a response to the exclusion of people with HIV and notes that the legislators did not wish to further their stigmatisation through a specific law for HIV sufferers. He comments that without the HIV/AIDS epidemic in France a law banning discrimination on grounds of

health would have been slow to arrive.

Since 1994, the new Penal Code has ranked discrimination among offences violating a ‘person’s dignity’.

Effectiveness

The legislative assertion of the principle of prohibition of discrimination on grounds of state of health or disability is considered important on the symbolic level (Verkindt, 1997). Very few cases have been brought to court and there appears to be no published information. A survey of the main organisations of and for disabled people was carried out by SNAPIE in November 1996 to assist our Review. Considerable difficulties were met in locating a legal judgement. Only one case was found where an employer was sanctioned on the basis of the law of 12 July 1990 after having dismissed a disabled worker for a reason to do with her disability. The case had been brought to court by the Fédération Nationale des Accidentés du Travail. It has been suggested that legal action is antithetical to the French tradition of campaigning for social rights (Schmitt, communication).

Waddington (1996) cites criticisms of the French approach to employment discrimination, including the lack of redress for complainants, the lack of opportunity for the complainant to bring a case personally (although the law allows organisations working for disabled people to associate themselves with the public prosecutor in a court action) and the failure of the law to proscribe indirect discrimination. She comments also on the failure of the law to define the concept of ‘handicap’ and the scope of the protected group.

Protection against dismissal

In cases of wrongful dismissal through discrimination, disabled people may take civil action under the Labour Code. While not specific to dismissals on the basis of disability, it provides for damages and/or re-instatement (Waddington, 1996).

Where a worker becomes disabled as a result of a work-related accident or illness, under the Labour Code the employer has an obligation to reassign the worker to another job if the original position cannot be kept because of the injury or illness. Waddington (1996) reports sources which say that, although there is no statutory obligation with regard to other workers who become disabled, French courts are increasingly willing to find that employers are obliged to offer them alternative employment or to make other accommodations.

PERSUASION POLICIES

Since the law of 1987 and the establishment of AGEFIPH attention has been directed towards changing the attitudes of the business world to the employment of disabled people.

AGEFIPH’s ‘information awareness’ campaign funds visits to companies, training sessions and communication campaigns, often organised by employers’ and trade associations. Long-term action is directed at chief executives in particular. Agreements signed with the Trade Unions in 1990 allow trade unionists to undertake awareness-raising meetings and training within companies. Direct help (diagnostic counselling) is available to advise companies on practical ways of integrating and retaining disabled workers.

OPEN EMPLOYMENT: FINANCIAL INCENTIVES

Financial incentives in open employment are available through mainstream and special job creation wage

subsidy schemes and through specialist provision managed by AGEFIPH or by the State. Most incentives are directed at employers but there are specific subsidies and grants directed at disabled people also.

Wage subsidies and supplements

Since 1982 there has been an extensive system of state subsidies to employers to promote recruitment of disadvantaged groups. A large number of 'work contracts' have been created, including disabled people among the target groups. This type of provision is widely used to encourage recruitment of people who have difficulties in finding employment, with or without disabilities.

CIE (contrat initiative-emploi)

This contract, introduced in 1995, exempts private sector employers from paying national insurance contributions for 12 or 24 months and awards a lump-sum grant of FF 2,000 per month for the same period. Under the CRE system (contrats de retour à l'emploi) which CIE replaced, ten per cent of contracts were awarded to disabled people in 1994 (19,500 contracts). In 1995, 12,000 disabled people benefited from CIE and 13,000 from CRE.

The département offices of the Ministry of Employment administer the contracts. Disabled beneficiaries must be recognised by COTOREP or covered by the law of 1987, and must have been unemployed. The job must be at least 16 hours per week. Most recipients earn the equivalent of the minimum wage.

The grant is paid in instalments; on recruitment, after three months, after 12 months, and after 24 months (or at the end of the contract if it is shorter). In the event of breakdown of the employment relationship, the employer is obliged to repay the grants and the national insurance reductions. CIE is popular with employers taking on disabled people because it can be used in conjunction with the lump-sum integration grant provided by AGEFIPH.

CES (Contrat emploi-solidarité)

The CES ('community-work contract') is a temporary integration measure to help priority groups among the unemployed to find employment through a short-term, part-time job (MISEP, 1996). Contracts are given for work which is useful to the community, in the public and non-profit-making sectors only. Disabled people were included as a priority group in 1991. Comparatively large numbers of disabled people are supported in this form of public service employment. The number of contracts grew from 9,400 in 1992 to 43,700 in 1995. Six per cent of recipients of CES are disabled people.

Contracts are for part-time work for no more than 20 hours per week. The normal duration is three to 12 months but extension to 24 months is possible for people in particularly difficult situations and is generally accepted if disabled people need more time to adjust to working life. The employee receives the minimum wage. The employer subsidy is between 65 and 100 per cent of wage costs, depending on the category of worker. The employer is also relieved of payment of employers' social security contributions for the duration of the contract.

Income guarantee for disabled workers

Every disabled worker (recognised by COTOREP) is guaranteed a minimum wage by the state (garantie de ressources). This provision was introduced in 1975 to counter the effects of long-standing regulations which allow employers to reduce the wages of disabled employees in line with their working capacities.

In 1995, only 7,000 people in open employment benefited, compared with 96,700 in CAT and sheltered workshops. In open employment it is intended to encourage private sector employers to consider taking on disabled workers without also taking on any of the costs of reduced productivity. It is generally used in situations where the disabled person needs support in the workplace, such as help from co-workers or

communication or mobility aids. Demand typically is led by the employer, encouraged by local employment support teams.

The income guarantee is administered and paid by the départemental office of the Ministry of Employment. In 1997 responsibility for disabled people working in open employment is transferred to AGEFIPH. The decision to grant the supplement is discretionary, based on advice from COTOREP which examines the worker's level of disability in relation to the job held. The level of productivity is assumed to correlate with the assessed degree of disability.

The wage reduction (*abattement de salaire*) is a maximum of ten or 20 per cent of the normal wage, depending on whether the worker is classified as moderately disabled or as severely disabled. When the severity of the disability or health condition prevents full-time work, or work at a normal rhythm, the reduction can be up to a maximum of 50 per cent. In this case, beneficiaries normally work part-time. No supplement can be awarded if the worker's wage exceeds 130 per cent of the minimum wage. The way in which the wage compensation is calculated means that some workers end up with a lower wage than their non-disabled colleagues. The supplement may be discontinued only if the worker's productivity increases.

Lump-sum integration grants

A lump-sum integration grant, paid to disabled people on taking up work and to their employers, is a major programme run by AGEFIPH. The grant is administered by AGEFIPH's regional offices, under the control of its national office. Disabled people covered by the law of 1987 may benefit if they work at least 16 hours per week.

The grants have proved exceptionally popular. In 1995, they supported the recruitment of over 33,000 disabled workers and over the first six years 156,000 were supported by the grant (AGEFIPH, 1996). Popularity may be related to the very high level of the grant since 1994: FF 40,000 to the employer for the first disabled worker hired; and FF 30,000 to the employee. In October 1995 a new system was introduced. By this point, the integration grants represented over 80 per cent of AGEFIPH's allocations and 63 per cent of the budget (AGEFIPH, 1996). The amounts were reduced to FF 15,000 for the employer and FF 10,000 for the employee. However, public assistance from CIE supplements more than 70 per cent of cases.

Applications are examined by AGEFIPH's technical services. Awards are discretionary and often given automatically. Only reasons for refusal are almost certainly incomplete applications and early dismissals or resignations.

The grant is for permanent job contracts or for contracts of at least twelve months. Most grants are given for full-time permanent jobs. The grant is paid in two instalments to promote retention, with the second paid after 12 months if the contract is maintained. The grant has particularly benefited smaller establishments of under 20 employees; two-thirds were awarded for recruitment in small firms, relating to 65,000 disabled people in a three year period. According to AGEFIPH, one in four employers would not have hired the disabled person without this incentive.

There is no published information about the characteristics of disabled recipients of integration grants. Half of all the disabled people helped by AGEFIPH in 1995 had motor impairments, over a fifth had chronic illnesses and one-sixth sensory impairments. Only eight per cent had learning difficulties and two per cent were mentally ill.

Support for retention

AGEFIPH also provides funding for job retention. A measure introduced experimentally in 1994 funds the transition period between the time that a person is registered disabled and an individualised solution is devised to keep the disabled person in the workplace.

Grants for adaptations

AGEFIPH gives financial assistance to companies to adapt the workplace and workstation. Subsidies can be used to make adaptations to buildings over and above the legal requirements under the law of 1992.

Since 1992, AGEFIPH has taken over from the State the funding of adaptations to workstations. In 1996, 2,800 people benefited from work station adaptation; in 70 per cent of cases in relation to job retention.

Benefits and allowances for disabled people

Invalidity pension

It is possible to combine receipt of 'first category' invalidity pensions with earnings from employment. 'First category' pensions (in the general pensions scheme) compensate for loss of earnings of people presumed able to work but unable to earn more than a third of their previous wage. ('Second and third category' pensions provide income replacement for disabled people deemed totally unable to work.) The number of recipients of invalidity pensions of all categories has remained stable since 1980 at around 430,000. Numbers of pensioners of the first category have also remained static, standing at 124,000 in 1993. As the level of the first category pension is set at 30 per cent of the average wage in the last ten years, the average amount is low.

Until the law of 1987, invalidity pensioners were not included among the disabled groups covered by special employment legislation and no action was taken to help them find jobs. Invalidity pensioners now count towards the attainment of the quota. The data suggest that the law has had some effect on the employment position of first category pensioners. Numbers in firms subject to the employment obligation have grown from 15,000 in 1988 to 25,000 in 1994. Their proportion among total beneficiaries of the law increased from under seven per cent to ten per cent..

Compensatory allowances for work-related costs

Disabled people in work may benefit from a compensatory allowance for work-related costs which arise from their specific disability. This social assistance allowance was introduced in 1975. It is administered by the social assistance services at département level and payment is made from the département social assistance funds. The recipient must be recognised by COTOREP as a severely disabled person, between the ages of 16 and 60, with 80 per cent incapacity. Eligibility is conditional on earnings limits.

The award relates to the real costs incurred, subject to a ceiling limit of FF 4,424 per month (January 1996). The claimant must produce invoices which are scrutinised by the social assistance services. The decision is discretionary, depending on confirmation by COTOREP that the claimant's working activity leads to extra costs specifically related to the disability and its consequences.

There are no data on those using the allowance, as the statistics do not distinguish between this allowance and the allowance for care attendance which is awarded within the same system. It is assumed that only a minority of the total 81,000 recipients of working age benefit from the compensatory allowance for extra costs of work. Levels of use are assumed to be low because of the very restrictive conditions.

Grants for aids and access to work

Financial assistance available from AGEFIPH is mainly for jobseekers, students, trainees and apprentices. It includes help to buy special equipment such as voice synthesizers, video-enlarger and braille recognition and tactile devices. The costs of temporary helpers such as interpreters and secretaries are also covered. AGEFIPH can also partly fund the costs of housing, car purchase or adaptation and transport to work. Such help is designed to complement the compensatory allowance. In 1995, 5,600 disabled people received help under the AGEFIPH programme.

Self-employment

Grants to disabled people to set up their own companies are a long-established feature in France, dating from 1946 when war-disabled people were granted long-term loans.

The current system of grants dates from 1981. Disabled people recognised by COTOREP or covered by the law of 1987 are entitled to one-off grants. Degree of disability is not relevant. Nor is level of work capacity, provided that the applicant can prove capacity to conduct the project. Decisions are made by COTOREP. The applicant must have completed a vocational training course in the last year, present good character references and fulfil all the requirements to conduct the profession. Grants are limited to those aged between 18 and 45. There are no recent data but the provision is thought to be rarely used.

Since 1994, AGEFIPH has also contributed complementary grants and technical assistance to unemployed disabled people to set up their own companies, as part of its 'activity creation' programme. Grants via AGEFIPH are easier to obtain than State grants. The subsidy is adapted to the project up to a ceiling of FF 50,000. AGEFIPH statistics do not distinguish help for self-employment among the 3000 'activity creation' projects it financed in 1995.

SHELTERED EMPLOYMENT

Aims

Work in sheltered environments gives those people who cannot have even a simple or sheltered job in an ordinary environment a remuneration which guarantees that the needs of life are met. There are two types of sheltered work and people are directed by COTOREP to one or the other according to their assessed work capacity. The aims of the two types differ.

The first type, comprising sheltered workshops (AP) and distribution centres for home work (CDTD), is intended for people whose work capacity is at least equal to one-third of normal capacity. AP are economic production units which must operate as commercial enterprises. Employees are subject to the same legal, administrative and contractual regulations as ordinary employees. They enable disabled people to work with methods which facilitate their vocational training, with the intention of allowing them to move to employment in an ordinary environment. The CDTD follow the same rules as the workshops; they receive orders from firms and distribute work to people at home. No more than 20 per cent of employees in sheltered workshops may be non-disabled.

The second type, the centre d'aide par le travail (CAT), caters for people from the age of twenty with temporary or permanent disabilities whose working capacity is less than one-third, whose potential aptitude for work is sufficient but whose condition does not permit a normal working life. There are many more people in CAT than in sheltered workshops and CDTD. The CAT provide activity with modified working conditions and may enable workers to enter a sheltered workshop or work in an ordinary environment at a later stage. CAT are valued by their proponents because they offer both productive employment and the necessary social support to make such employment rewarding; indeed, they may be the only means of protecting people with severe mental disability from being eliminated from the labour market.

Each workshop or CAT has at least three different types of activity, so that workers have a chance to find a suitable job. About 60 per cent of activities in CAT involved in SNAPEI (see below) are in sub-contract work (packing, electronics, car industry, telephone repairs); about 20 per cent are services (gardening, cleaning of offices, laundry, decorating); and 20 per cent are own production, mainly in agriculture and the food industry.

Provision and funding

Sheltered workshops (AP) may be established by local authorities, public institutions and private establishments. They may make use of public aid at département, regional or local level to establish new enterprises and create new jobs. Specific grants are allocated through the Regional Directorates of Labour and Employment as administrative and investment grants. The purpose of administrative grants is to compensate for excessive workload resulting from the employment of workers with limited vocational abilities. In 1995, administrative grants amounted to FF 129.6 million. The total investment grant has increased by 141 per cent since 1992 to stand at FF 19.2 million in 1995. The level of subsidy may be up to FF 10,000 per person.

A national audit of AP was carried out 1994. In May 1996 an experiment was set up in two regions to create a commercial interface between enterprises and AP (Ministry of Labour and Social Affairs, 1996).

The majority of CAT have been created by local parents associations. Parents associations have grouped together into a national association for parents of mentally disabled children known by the acronym of SNAPEI. There are 50,000 workers with a moderate or severe mental disability employed in the 500 CAT and workshops created by local associations grouped in SNAPEI (in 1992). Their size ranges from 30 to 80 workers. Disabled people in CAT are not legally workers. In legal terms, CAT are social service institutions, subject to the legislation ruling social and medico-social establishments (Samoy, 1992). That said, CAT operate like companies and are employment organisations. The CAT are heavily subsidised by the State.

Both CAT and sheltered workshops have expanded constantly, as Table Fr.10 shows. Expansion remains a policy objective.

In sheltered working environments the wage paid directly by the employer may not be less than half the wage an able-bodied employee would receive for the same job (MISEP, 1996). In CAT establishments, remuneration is dependent on productivity but may not be less than five per cent of SMIC. In AP, the pay the disabled worker receives direct from the AP must be no less than 35 per cent of SMIC.

Table Fr.10 Number of establishments and disabled workers in sheltered work, by year

Year	No. of CAT	Workers in CAT	No. of sheltered workshops	Workers in sheltered workshops
1978	502	30,300	76	3,700
1979	568	35,000	82	4,000
1980	570	42,300	90	4,200
1981	683	46,000	98	4,500
1982	746	52,000	104	4,800
1983	876	54,000	130	5,000
1984	932	58,000	149	5,700

1985	981	60,000	170	6,200
1986	997	63,000	190	6,800
1987	1004	65,000	215	7,300
1988	1028	68,000	215	7,700
1989	1052	69,000	253	8,400
1990	1090	72,000	295	10,000
1991	-	74,700	331	10,800
1992	-	76,800	360	11,800
1993	-	-	405	12,500
1994	-	-	440	13,300
1995	-	-	465	13,700

Workers in both AP and CAT are covered by the guarantee of financial means and the State pays the establishment a subsidy to supplement wages paid on the basis of productivity. In 1995, state subsidies for guarantees of financial means amounted to FF 571.3 million in AP and FF 3,598.8 million in CAT. The average annual subsidy for each AP and CAT worker is FF 36,000 and FF 55,000 respectively.

Employees

Prospective workers in sheltered employment must first be assessed as disabled by COTOREP. To enter a sheltered workshop a work capacity of at least one-third of normal is required. For access to the CAT a work capacity of less than one-third is needed. Samoy, (1992) comments that the legislation does not define how work capacity should be measured and that the relationship to the A-B-C classification is not apparent. Accordingly, COTOREP has a great deal of discretion. Samoy reports that people with a mental illness are admitted under a different procedure with a different legal status and are not given the guaranteed minimum income.

Figures from 1987 show that almost three-quarters of users of the CAT had mental handicaps and a further 18 per cent had other mental disorders. In the sheltered workshops (and CDTD) 35 per cent had mental handicaps (24 per cent mild), 13 per cent other mental disorders and 34 per cent locomotor impairments. In that year 87 per cent of CAT workers and 73 per cent of workshop employees were under 40 years of age.

Transition

All studies of the CAT have found less than one per cent of users leaving for open employment or sheltered workshops. Labourdette et al.. (1990) comment that the interests of CAT management and of parents of disabled workers, along with poor direction from COTOREP, have conspired to minimise the numbers progressing to integrated employment. The spokesperson for the national association of parents (SNAPEI) notes that transition is not to be recommended without first considering the quality of work proposed, the number of working hours or the salary, and that open employment with support is not necessarily cheaper for the state than sheltered employment (Schmitt, personal communication).

Policy initiatives under the law of 1987 and subsequent decrees have aimed to promote recruitment in open

employment of people from sheltered employment, with 1,700 recorded in 1990 and 1,600 in 1991. An agreement of November 1990 between the public authorities and the national association of users stipulated that 25 per cent of CAT places should give priority to progression to open employment (Zibri, 1995). The 'plan for employment' of April 1991 included financial help for follow-up support for workers moving to open employment from the CAT and the introduction of a grant of FF 50,000 to sheltered employment establishments for promotion to open employment. However, discrepancies in arrangements for supplementing wages in open employment remain a problem (Zibri, 1995).

SUMMARY

Measures to favour the employment of certain groups of disabled people stem from after World War I when legislation recognised the right of war-disabled people to vocational rehabilitation. A quota scheme for disabled veterans was introduced in 1924, as was the principle of reducing wages in line with work capacity. The right to vocational rehabilitation was introduced in 1930 for people returning to work after occupational accident or disease but they were not included in the quota until 1955.

An act of 1957 promoted a quota system for the public and private sectors and provided for sheltered employment. It introduced a committee at département level which classified disabled workers. The 1957 act fell into disuse and was replaced by the comprehensive act of 1975. The latter authorised the vocational guidance committees (COTOREP) to recognise disability and grant all forms of allowances and vocational guidance. New provisions included exemption from employment obligations if firms entered into contracts with sheltered work centres and a right to a minimum wage in open and in sheltered employment. By 1975 a number of lasting features of disability employment policy were established.

The comprehensive act of 1975 sees integration of disabled people as a national obligation; it relates to disabled people of all ages and includes education, social security, access to buildings and employment matters. A law in 1991 improved access to public establishments and workplaces. In 1990, the penal code was amended to protect disabled persons against discrimination in employment and in obtaining goods and services on grounds of the state of their health or their disability; very few cases have come to court.

The law of 1987 in favour of the employment of disabled workers marked a shift away from a policy based on debts due to victims of war or of society, towards one founded on the responsibility of the economic actors for the integration of disabled workers. It imposed an obligation on public and private sector employers of at least twenty eligible staff to employ a quota of defined categories of disabled people and extended coverage to people entitled to a disability pension under compulsory social security schemes. The target rose a percentage point for three transition years to stand at six per cent in 1991 and beyond. In calculation of the quota, certain employees may count as more than one, depending on age, severity or type of disability, or previous situation.

The employment obligation may be met in part through contracts with sheltered workshops. There has been a steady growth in the number of private sector establishments entering into sheltered work contracts, representing 21 per cent of establishments in 1994. A further objective of the law of 1987 was to bring vocational integration of disabled people into the economic domain, through the established practice of accords between the two sides of industry. If plans for integration are approved, the organisation is exempt from pursuing other means of meeting the employment obligation. Almost all the accords agreed since 1988 were reached by large conglomerates, mostly with national coverage, for several years at one time. In 1994, 70 accords covered 1,700 enterprises.

As an alternative to employing disabled people, employers may make a voluntary contribution to a new fund (AGEFIPH) to further the employment of disabled workers. The policy intention was to allow those employers unable for economic reasons to promote the employment of disabled workers to discharge their obligations financially. The fund then redistributes the money to enterprises which are able to pursue that

aim. However, it appears that employers are choosing between alternative ways of meeting their obligations. In 1991, 60 per cent of establishments making a voluntary contribution employed no disabled staff. In 1994, three-quarters of establishments subject to the voluntary contribution met their obligation in no other way.

At the end of the transition period, when the achieved private sector quota was 3.7 per cent, action was taken to increase and ease access to financial incentives, improve training and eradicate dysfunctional practices. In 1992 'multiple counting' was extended to encourage new recruitment. Between 1993 and 1994, the proportion of new recruits increased.

In 1994, the achieved quota was 4.1 per cent and the number of disabled employees declared remained constant at three per cent of the workforce. Of the 85,000 establishments covered by the law in 1994, 36 per cent met or exceeded the six per cent target, 27 per cent employed some disabled people without reaching the target, and 37 per cent reported that they employed no disabled people.

The public sector was expected to set an example. In 1990 the state, hospital sector and decentralised and local authorities (collectivités territoriales) reported attainments of 3.38 per cent, 4.8 per cent and 4.1 per cent respectively; in 1991, the state sector reported 3.2 per cent, including 0.053 per cent for contracts. Four ministries exceeded the target in 1991. Returns from local authorities were incomplete and unreliable; some large towns refused to meet the obligation to provide annual returns and there was some opposition to identifying members of staff as disabled.

A number of bodies are involved in policy and service delivery. The Employment Delegation, within the Ministry of Labour, Employment and Vocational Training, advises on policy and manages the employment agency (ANPE) and the association for adult vocational training (AFPA). ANPE has specialist officers for the placement of disabled people; its guidance and placement services for disabled people at département level were restructured and co-ordinated in 1994.

At département level COTOREP directs workers it recognises as disabled towards guidance, training and placement in open and sheltered employment. The number of COTOREP assessment decisions doubled between 1987 and 1995. COTOREP was modernised in 1994. Working in collaboration with ANPE and COTOREP are around one hundred specialist 'preparation and follow-up teams' for the guidance of disabled people seeking (re)employment and 30 newly established 'organisations for integration and placement'. A number of established national disabled persons' associations play a significant role in support and placement through agreements with ANPE. Recent pilot projects to improve local co-ordination have increased placements.

Training is provided both in the mainstream and in public and private centres for vocational rehabilitation, with an increased emphasis on mainstream opportunities. AGEFIPH is now a significant co-funder of training through agreements with AFPA.

People are classified as disabled according to differing criteria, depending on the benefits or services claimed. The labour code defines a disabled worker as someone whose chances of obtaining or retaining a job in normal employment are effectively restricted because of insufficient or reduced physical or mental facilities.

Some subsidies or grants specifically for disabled workers' employment are available from the employment offices and others from AGEFIPH. Funds redistributed by AGEFIPH are aimed at access and job retention but may be used for research, promoting attitudinal change, training, and for support for the disabled person at the workplace. AGEFIPH now manages assistance for adaptation of workplaces for workers recognised by COTOREP. Integration awards, managed by AGEFIPH, for the employment of beneficiaries of the law of 1987 are available to new recruits and their employers.

A guarantee of financial means is assured for disabled workers with reduced productivity recognised as disabled by COTOREP, in the form of a supplement to the wages paid by the employer; this is used mainly in sheltered work. Disabled people are a priority group in public employment measures. Employment initiative contracts (CIE) are flat-rate monthly subsidies paid to employers who recruit certain unemployed people. In 1994, ten per cent of such subsidies related to disabled people. The number of disabled beneficiaries has grown substantially since 1992. The use of employment solidarity contracts (CES), offering temporary, part-time work in the public and non-profit sectors, is even greater.

COTOREP directs people to one of two sorts of sheltered work. Sheltered workshops and distribution centres for home work are intended for people whose work capacity is at least one-third of normal. They are production units which must operate as commercial enterprises. Work methods should facilitate a move to an ordinary employment environment. The centres d'aide par le travail (CAT) cater for people whose working capacity is less than one-third and whose condition does not permit a normal working life. Working conditions are modified. The CAT are heavily subsidised. Although they work like companies they are social service institutions and the users are not legally workers.

In 1992 there were an estimated 76,800 workers in CAT and in 1995, 13,700 in sheltered workshops, with expansion in progress. The number of sheltered workshops has doubled since 1988 and the number of employees has increased by 80 per cent. A national audit of sheltered workshops took place in 1994. Commercial links between workshops and enterprises are the subject of two regional experiments in 1996.

Around three-quarters of users of CAT have learning disabilities and a further fifth have mental disorders. In sheltered workshops around a third have learning disabilities (two-thirds of them mild) and a third have locomotor impairments. Transition to the mainstream has typically been very low. Policy initiatives to stimulate transition include follow-up support for workers and a grant for sheltered establishments promoting open employment. There is little evidence of alternative forms of employment.

Disabled people have been hit by the falling demand for labour and high unemployment. The increase in disabled jobseekers has been greater than for jobseekers as a whole. In December 1995, 120,000 disabled people were registered as seeking work with ANPE.

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¹ Three further categories of beneficiaries relate to widows or orphans of people who died as a consequence of wounds or illness acquired in military service, or with defined pension entitlements. A fourth refers to the wives of ex-servicemen who live in institutions because of mental disturbance caused by war-time service, where they have pension entitlements. Any returns pertaining to these categories are grouped with war veterans. Voluntary firemen injured in action are also covered.

² Early data on fulfilment of the employment obligation are taken from Ministerial Reports to Parliament

(1992; 1993).

In 1995 it had risen to 4.22 per cent.

⁴ The total number of posts deemed to have been met may not exceed half of the legal target. In the public sector, the equivalent number of posts deemed to have been filled was at first calculated by dividing the contract price by the minimum annual public service salary (Decree no. 89-355 of 1 June 1989). In the private sector, the employer is allowed the number of posts that would have been required to carry out the tasks contracted out (Decree no. 87-76 of 22 January 1988). A further Decree (no. 92-1192 of 5 November 1992) has simplified these conditions.

We are grateful to Madame Marie-José Schmitt for conducting this survey.

GERMANY

POLICY AND INSTITUTIONAL CONTEXT

Disability policy and legislation

In Germany the legislative approach to employment of disabled people is closely associated with social insurance with its commitment to rehabilitation rather than benefits. The approach is underpinned by a set of guiding principles. The account in this section draws on the Bundesministerium für Arbeit und Sozialordnung (Ministry of Social Affairs) guide *The Integration of Disabled Persons in the Federal Republic of Germany* (BMA, 1995).

Social insurance and rehabilitation

Initially, legislation focused on individual groups of affected people and their specific problems and was closely associated with social insurance. Following the 1884 Accident Insurance Act, insurance funds began to provide medical services with the dual intention of limiting the consequences of accidents at work and reducing the amount of money paid in pensions. As early as 1889 it was legally possible for the funds to assume the costs of medical care if illness or accident threatened to cause incapacity for work and a need for invalidity pension. Here we can see the origins of the current guiding principle of ‘rehabilitation before pension’.

The 1919 imperial uniform regulations on war victims’ welfare were also initially intended to reintegrate war victims into gainful employment, supplemented by provisions which obliged employers to employ, in the first instance, victims of war and accidents. For the integration of disabled persons other than those disabled by war or accident, uniform imperial rulings were introduced in 1924 as part of the Principles of Welfare. The legal provisions regarding employment placement and unemployment insurance of 1927 introduced the guiding principle of the advice and assistance of disabled persons. In the decades that followed, the objective of integration into working life and into society as a whole of disabled persons and of persons threatened with disability was pursued; the principle of earliest possible intervention was increasingly applied; and approaches used in individual social assistance fields spread into other areas.

The Further Development of Severely Disabled Persons Act of 1974 extended the protected group to include all severely disabled persons, irrespective of the nature or cause of their disability. The law relating to the Harmonisation of Benefits for Rehabilitation, 1974, attempted to standardise assistance for medical and vocational rehabilitation and wage-compensation benefits payable during rehabilitation and to establish a series of uniform principles for all social assistance sectors and funds. It is recognised, however, that the provisions affecting the various assistance funds, as embodied in the latter act, have not been properly co-ordinated with each other and are not in harmony with those of social assistance, and that the rulings of the Severely Disabled Persons Act are not in harmony with those for rehabilitation.

The German Bundestag has demanded on several occasions that the legal provisions for the rehabilitation of

disabled persons be merged, in order to obtain a uniform format for incorporation in the Social Code. The same demand was made by the Conference of Ministers for Labour and Social Affairs and reiterated by many other organisations, among them the Federal Working Group of Private Welfare Organisations and disabled people's organisations. The Federal Government announced in consecutive reports on the position of disabled people and the progress being made in rehabilitation that it intended to follow up these demands. It is recognised that co-ordination between the medical, vocational and social rehabilitation systems is the most important problem with regard to the costs and quality of rehabilitation. A draft for reform was presented for discussion in 1993 (BMA, 1995) with the aim of connecting the old law on the integration of disabled people with general regulations on rehabilitation.

Following Unification, the social security system developed in the Federal Republic of Germany applied in the five new federal states (or Länder), as well as the eastern part of Berlin. The Treaty of Unification, which came into effect on 3 October 1990, created a uniform legislative basis for assistance to disabled persons. From January 1991, new benefits for the care of victims of war were extended to the territory of former East Germany; and benefits for medical, occupational and social rehabilitation were provided by the funds responsible in the former federal territory.

Guiding principles

The 'social right' of disabled persons to integration was incorporated in the General Section of the Social Code.. According to Section 10 of Book 1 of the Social Code, first formulated in 1975, any person who is physically, mentally or psychologically disabled, or who is threatened by such a disability, has a 'social right', independent of the cause of disability, to the assistance which is necessary in order to:

avert, eliminate, or ease the disability, prevent its aggravation or to reduce its effects and ... to secure a place in the community, in particular in working life, in accordance with his or her inclinations and abilities.

This 'social right' is the guiding principle behind policy for rehabilitation and is the legal basis for the interpretation and application of social legislation. Four principles are emphasised in policy statements.

According to the first principle the aim of integrating disabled persons into society means enabling people to live as normally and independently as possible, depending as little as possible on social benefits. It also means avoiding special facilities and regulations for disabled people. Secondly, according to the principle of 'finality', the necessary assistance must be offered to every disabled person and person threatened by disability, regardless of the cause of disability, even when responsibility for this assistance is held by a number of different funds and institutions whose eligibility requirements for the provision of assistance vary.

Intervention at the earliest possible stage is the third principle, in order to minimise the degree and effects of disability and to compensate as far as possible for unavoidable effects. The fourth is the principle of individual assistance, which is tailored to the actual needs and situation of each individual disabled or threatened by disability. Thus, the help available does not depend on the severity of the disability.

Similar objectives are found in the legislation governing benefits for the integration of disabled persons. The Federal Social Assistance Act also stipulates explicitly that the objective of health insurance and social assistance funds is to avoid or reduce the need for care.

Non-discrimination legislation

A recent development, the law of 27 October 1994, was the amendment of article 3 (3.2) of the Constitution to state that no person may be discriminated against on grounds of disability. This came about with pressure from the disability rights movement in the course of constitutional reform resulting from unification (Frehe, 1995). Although primarily symbolic, the amendment supports the aim of rehabilitation. Its effects on the employment position of disabled people are not yet known.

Evolution of disability employment legislation

In Germany, as indicated, considerable stress is laid on the concept of rehabilitation. Here vocational training and retraining are centrally important.

The other main component of employment policy for disabled people, also with a long history, is compulsory employment. Legal provisions obliging employers to employ victims of war and of accidents appeared in 1919 and were extended in 1924 to certain other groups of disabled people. The quota system adopted in 1923 remained a central feature in the period following World War II, with quotas of between two and ten per cent, depending on origins of disability, applied in the occupied zones (Jung, 1987). New legislation in 1953 set a quota for employers with at least seven workers of ten per cent for public employers and the banking and insurance industries and six per cent for private industry. Beneficiaries were mostly those people disabled through war or industrial accident. According to Jung (1987) the law was amended in 1961 because there appeared to be insufficient eligible disabled people to fill the places (by 1960, 320,000 places were unoccupied and only 6,000 eligible people registered unemployed). The amendments introduced a single quota of six per cent, applying to at least nine employees in the public sector and 15 in the private sector, and required beneficiaries to have a work-related disability of at least 50 per cent. The situation did not improve, however.

It was against this background that the Severely Disabled Persons Act (Schwerbehindertergesetz) was introduced in 1974. That Act is the one exception to the principle of needs-oriented assistance described above. To benefit under the Act it is sufficient to supply evidence of a degree of disability of at least 50 per cent without having to prove that the disability has occupational consequences. However, an exception is made for people with a degree of disability of at least 30 to 50 per cent who have to show that they could not find or hold a job because of disability. According to Rindt (1991) the reason for deviating from the principle was that experience showed that, mainly because of continuing prejudices, severely disabled people were still disadvantaged in working life when competing with non-disabled colleagues, even if their performance was not reduced.

Amended in 1986 and 1990, the Severely Disabled Persons Act is the basis of current compulsory employment policy. In brief, the 1974 Act extended the quota to include disabled people with a work-related capacity of 30 to 50 per cent and to apply to all employers with at least 16 employees. The quota remained at six per cent but there is provision to set it anywhere between four and ten per cent. At the discretion of the employment office certain workers, including those who are considered particularly difficult to employ and disabled people receiving training within the firm, may count as up to three persons. Other new features were a compensation levy to be paid by those who did not meet their quota, an obligation on employers to examine every vacant position for its potential for a severely disabled person and special protection and representation of disabled workers at the workplace.

The Act was an important landmark in moving from a compensatory principle, which recognised the cause of disability, towards an absolute right to integration, depending not on cause but on nature, severity and repercussions of a disability. A consequence was a substantial increase in the number of people protected by the law. It is apparent that the 1974 Act stimulated some controversy (and possibly resentment), with the public overestimating the number of disabled people benefiting from special protection in employment and financial concessions (WHO, 1990).

The Act was amended in 1986. The term 'reduction of earning capacity' was replaced by 'degree of disability'. Protection against termination of employment was to apply only after six months (in line with the terms of the general Protection against Dismissal Act). Calculation of obligatory employment vacancies no longer took account of training vacancies. The legal status of severely disabled persons' representatives was

strengthened and greater emphasis placed on their co-operative function during recruitment.

The Treaty of Unification of 1990 created uniform prerequisites and conditions for labour legislation and work safety, as well as for social security. Laws have been passed for the territory of the former East Germany relating to the integration of disabled persons based on regulations of the Federal Republic of Germany. Such laws include an employment promotion act which provided for the full range of benefits for occupational rehabilitation, and a Severely Disabled Persons Act which includes, among other things, improved protection against dismissal for severely disabled persons, the election of representatives of severely disabled persons in companies and public administrations, and the minimum number of places regulation. In the former East Germany, employers had a legal obligation to meet a ten per cent quota of disabled people but there were no sanctions.

The compensation tax for unfilled compulsory places (the levy) was also extended to the new federal states. As the amount of compensation tax according to the Severely Disabled Persons Act for unfilled compulsory places was DM 150 per month in West Germany and DM 250 in East Germany; a compromise was found with a uniform rate of DM 200.

Policy-making and implementation

At federal level a division of the Ministry of Labour and Social Affairs (BMA) is responsible for relief payments to war victims, laws relating to disabled people and vocational integration of disabled people. The Federal Employment Service, with its 11 regional employment offices, 184 local employment offices and 640 branch offices (at October 1994), comes under the legal supervision of the BMA.

The Severely Disabled Persons Act, as amended in 1986, set up advisory committees for disabled people attached to the Federal Employment Offices, centrally and locally, to propose integration measures and support the Employment Office in the implementation of the Act. Five of the eleven members represent disabled peoples' organisations.

The 1986 Act also established a Council for the Rehabilitation of the Disabled, attached to the Federal Ministry of Labour and Social Affairs, with membership of 38, representing workers, employers, disabled peoples' organisations, the Länder, insurers, welfare services and rehabilitation institutes. The Council advises the minister on issues relating to employment promotion and takes a co-ordinating role, notably with reference to rehabilitation institutions and distribution of the compensatory levy fund.

No single independent social benefit fund holds responsibility for the benefits and other aids to integration. Rather, they are embedded in the miscellaneous tasks of a large number of responsible funds. Employment-promoting benefits are provided by the Federal Employment Office, pension and accident insurance funds as well as the funds responsible for social compensation in the event of damage to health. Rehabilitation funds must work closely with each other in the interests of rapid and lasting integration; when several measures are required or several funds or offices are involved, they have to draw up a 'general plan' for rehabilitation (Section 5 of the Rehabilitation Harmonisation Act).

According to the Severely Disabled Persons Act, the Federal Employment Office is responsible for employment, careers advice and job placement, and for careers advice and placement in connection with vocational training vacancies. Special careers advice and placement centres have been set up at unemployment benefit offices for the employment and vocational assistance of disabled and severely disabled persons.

The welfare agencies of the Länder (Hauptfürsorgestellen) provide services to integrate severely disabled persons into working life. These agencies receive 55 per cent of the compensatory levy which employers

have to pay if they fail to fulfil their obligation to employ a certain number of disabled persons. This funds an additional programme of services and benefits. The welfare agencies have a role in vocational counselling and company visits. Thus, the Severely Disabled Persons Act is applied by the Hauptfürsorgestellen of the Länder and the Federal Employment Office 'acting in close co-operation'.

Social partners

The social partners are represented in the two advisory bodies outlined above.

The Federal Union of Associations of Employers has begun to meet with the Federal Employment Office and the Hauptfürsorgestellen to discuss ways of improving the employment prospects of severely disabled people, notably by increasing awareness of their potential and of the help available among small and medium-sized enterprises.

Vocational training institutions are beginning to take proactive measures to involve employers, for example by organising seminars, and there are some examples of regular 'round table' meetings among all the institutions, including the social partners, involved with the integration of disabled people (HELIOS Team of Experts, 1996).

Trades unions are reported to have sought to intensify the employment obligation and to have been active promoters of the interests of disabled people in the debate; they have worked to increase the commitment of disabled employees' representatives at the level of the firm (Frehe, 1995).

Disabled people's organisations

Representatives of organisations of disabled people also sit on the two advisory bodies.

Disabled people's organisations have the right to sue in the case of permanent infringement of the quota. The disability rights movement has campaigned for a strengthening of the employment obligation and for the introduction of a collective right to sue for employment or compensation in the case of discrimination (the law currently allows for an individual right). The movement claims credit for the amendment to the Constitution to prohibit discrimination on grounds of disability but its influence on policy remains small (Frehe, 1995).

Overall, a relatively small proportion - about 30 per cent - of disabled people are organised and associations of disabled people have been found to employ strategies of consensus and compromise, rather than to act as pressure groups (Hammerschmidt, 1992).

DEFINITIONS OF DISABILITY

'Disabled persons' are all those who are limited in their capacity for integration into society because of the effects of a physical, mental or psychological condition which is contrary to the norm, and where limitation of this capacity for integration is not merely of a temporary nature. This definition, based on the proposals of the World Health Organisation, is found in section 3 of the Severely Disabled Persons Act and in the application of specific regulations.

Determination of disability status is the responsibility of a special independent welfare institution. To clarify which individuals are to be regarded as severely disabled, the Federal Ministry for Labour and Social Affairs issued in November 1983 'Guidelines for Medical Expert Examinations under the Social Compensation Act and the Severely Disabled Persons Act'.. This essentially medical procedure attempts to measure the degree of functional disability. The seriousness of limitation is expressed as a 'degree of disability' in increments of ten degrees between 20 and 100.

Formal acknowledgement of the disability and registration are required in order to receive special forms of assistance and rights under the Severely Disabled Persons Act. Registration is voluntary. Severely disabled persons may receive on application an identity card which verifies the degree of disability ascertained. According to the Severely Disabled Persons Act, 'severely disabled persons' are those whose degree of disability is at least 50 per cent.

When the Severely Disabled Persons Act was amended in 1986 the term 'a reduced earning capacity' was replaced by 'degree of disability', to avoid implying a reduction in a person's fitness for work (Rindt, 1991). However, a special ruling applies for people with a degree of disability of 30 to 50 per cent whose disability has occupational consequences: if they are unable, because of their disability, to find or retain suitable employment, they are accorded equal status with the severely disabled by the employment office upon application. National sources refer to this latter category as 'persons on the same footing as a severely disabled person'.

STATISTICS

In 1992, the labour force population in the former West Germany was 31.6 million and in the former East Germany 8.1 million. The labour market participation rates were 71.1 per cent and 77.7 per cent respectively. The respective annual average unemployment rates in 1993 were 8.2 per cent and 15.8 per cent (MISEP, 1994). In 1995 the rates were 8.3 per cent and 14 per cent: 3,621,542 were unemployed, an overall rate of 9.4 per cent.

Registered severely disabled people

Official statistics are based on numbers of severely disabled persons registered under the Severely Disabled Persons Act, that is, registered persons who are at least 50 per cent disabled and 'those on the same footing'.. As registration is voluntary some groups of disabled people are under-represented, notably women (Niehaus, 1993). Thus, the statistics should not be taken to reflect the prevalence of disability in the population.

Registration gives access to other benefits, including an extra five days paid leave, travel concessions and reductions of fees for telephone, television and radio, as well as tax reductions.

In 1993 in the former West Germany about 5.6 million people were recognised as being severely disabled. In East Germany the number was 814,000. The share of severely disabled people in the whole population of 81.32 million is nearly eight per cent. Table G.1 gives the proportions by age.

Table G.1 Proportion of registered severely disabled persons in the population before December 1993

Age	Percentage
Under 15	0.86
15 - 24	1.36
25 - 34	1.96
35 - 44	3.06
45 - 54	7.00
55 - 64	16.25

Over 64	25.72
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Source: BMA, 1995

Data on the impairments of registered disabled people shows that about one-third of severely disabled people in Germany are affected by limitations of internal organs (ZENTRAS, 1996). Winkler (1996) comments on this prevalence of 'invisible' disabilities. Stork (1996) comments that those with psychological disorders seldom achieve the 50 per cent disability status, and that mental handicap is more predominant among the younger age groups.

Labour market participation of disabled people

Disabled people's labour market participation rate stands at half that for non-disabled people. In 1989, in the West the participation rate for disabled men was 32.9 per cent, compared with 63.8 per cent for the non-disabled; for women, the respective rates were 18.3 and 38.8 per cent (George, 1995).

Niehaus (1994) draws on official statistics and the microcensus of 1989 to show the impact of disability and age on women's labour market participation and structural differences in male and female participation. Women who are disabled are employed far less than either non-disabled women or disabled men. Disabled men and women are poorer than non-disabled. The relationship between disability, unemployment, reduced income and gender is evident from the analysis of the microcensus data.

Employed disabled people

Severely disabled people recorded in employment under the quota system numbered 775,665 in the West and 82,863 in the East in October 1993. In October 1994, the total was 861,912. Numbers for earlier years are given below in a discussion of the quota scheme. The estimated number of severely disabled people in employment with employers who fall outside the quota scheme was 112,600 in the West in 1993.

Unemployed disabled people

Annual figures from the Federal Employment Office for the number of severely disabled people in the West seeking employment are shown in Table G.2, and numbers for all Germany in Table G.3.

Table G.2 Unemployed registered severely disabled, West, by year

Year	Men	Women	Total
1981	58,099	28,455	86,554
1982	75,850	36,114	111,964
1983	89,852	41,308	131,160
1984	96,455	41,861	138,316
1985	94,989	41,019	136,008
1986	85,872	40,713	126,585
1987	85,310	41,492	126,802
1988	87,332	43,234	130,567
1989	81,966	42,331	124,297

1990			121,010
1991			116,750
1992			124,825
1993			144,410
1994			155,525

Sources: Grammenos, 1991, table 27; Stork, 1996, p17

Tables G.2 and G.3 show the rise in the absolute number of registered disabled people who are officially unemployed. Data for West Germany only show that the labour market position of severely disabled people has steadily worsened relative to the unemployed as a whole. In 1986 when the unemployment rate was 9 per cent the rate for disabled people was 11.9 per cent: since 1992 the gap has stood at over 5.5 percentage points; and in 1995 the rate for disabled people was 15.8 per cent compared with 9.4 per cent overall (Winkler, 1996).

In 1994, 45 per cent of unemployed severely disabled people were aged 55 and over, and another 19 per cent were aged 50 to 54. About two-thirds of unemployed severely disabled people have no formal qualifications.

Table G.3 Unemployed registered severely disabled, East and West, by year

Year	Total
1990	132,409*
1991	136,689
1992	155,082
1993	172,849
1994	178,317
1995	176,123

* West, and East for October to December only.

Source: BMA

Severely disabled people are over-represented among the long-term unemployed. Nearly half are unemployed for more than one year, compared with only 33 per cent (1995 West) of all unemployed. The high unemployment rate is predominantly a result of long duration of unemployment and low outflow rates. George (1995) reports that older disabled people are on average unemployed for longer (an average duration of 15.5 months compared with 7.7 months) and that disabled people lacking formal qualifications are unemployed for even longer (average duration 18.4 months). Moreover, only one-fifth (20.6 per cent), in 1993, left unemployment for a job, compared with two-fifths (41.6 per cent) of all unemployed. In fact, in 1993 three-quarters (76.2 per cent) of disabled people left unemployment for (early) retirement, were excluded early from the system, withdrew from the labour market, or became sick (George, 1995).

It should be remembered that the above data are based on registered disabled people. They exclude those who are not registered but nevertheless have illnesses or social disorders which affect their capacity in the labour market (Niehaus, 1997).

EMPLOYMENT SUPPORT SERVICES

‘Vocational rehabilitation plays a crucial role in Germany. A proper vocational training is the best qualification for permanent integration into working life and the best protection against losing the job. This applies both to disabled and able-bodied people, but especially to disabled people’ (Rindt, 1991, p.7).

Disabled persons and persons threatened by disability can claim, in the first instance, the same social assistance and other benefits available to any other citizen. For example, in retraining for a different occupation a disabled person is entitled, according to the Employment Promotion Act, to the same benefits as a non-disabled person. However, if retraining is needed for vocational rehabilitation as a result of disability, special, more favourable, eligibility regulations apply and the range of benefits differs.

Until 1996, all disabled people had a legal claim to vocational rehabilitation benefits. These included assistance in obtaining and keeping a job (including assistance to promote the take up by employers of employment and integration allowances), further training, basic training and retraining. Formal acknowledgement of disability according to the Severely Disabled Persons Act has not been required in order to receive vocational rehabilitation measures. In fact, only about ten per cent of participants are severely disabled persons.

However, the long-standing legal right to occupational rehabilitation measures is abandoned with the introduction in January 1997 of the Growth and Employment Act. Only those already registered as severely disabled will retain legal entitlement. Henceforth, other cases will be dealt with on a discretionary basis. As rehabilitation is paid for from insurance funds - which fund depends on factors such as the cause of disability - in future allocation will be determined by the financial situation of the fund in question.

The most important agency for vocational rehabilitation is the Federal Employment Service which finances over 80 per cent of cases (MISEP, 1994). The overall contribution made by statutory pension and accident insurance towards occupational rehabilitation for measures and benefits, which are the same in terms of content, is relatively small. However, while the Federal Employment Service is responsible in almost all cases of first integration, the pension and accident insurance funds fund between 60 and 70 per cent of re-integration cases.

During the course of vocational rehabilitation, the fund responsible usually provides cash benefits - training allowance for initial training and a temporary allowance to assure subsistence, in particular in the case of retraining, and also pays social security contributions. With the Growth and Employment Act, coming into force in January 1997, their benefit provisions are reduced and brought into line with the amount of benefit paid by employment offices. The temporary allowance of 70 per cent of previous net earnings is reduced to 68 per cent; the amount for those with a dependent child or spouse in need of care is reduced from 80 to 75 per cent of net earnings. (Added to this are benefits such as payment of course expenses, examination fees, expenses for study aids, working clothes and working equipment, travelling expenses, and assistance in the home where it is impossible to keep a household with a child because of participation in a rehabilitation measure.)

Vocational guidance

In Germany, education for disabled children is mainly in special institutions designed for children with different impairments. In 1993, 371,318 children attended schools for the disabled, 90,790 of them in the new Länder. Well over half (57 per cent) attended schools for the educationally subnormal. Some vocational training, notably for mentally disabled children, takes place in these special schools; the next step for them is usually transition to sheltered workshops.

Preparatory measures for transition from school to training place or workplace begin in the final years at general or special school, with specialist subjects (such as employment studies, technology/factories,

economics) intended to convey basic knowledge about working life. The Federal Employment Office is obliged by law to co-operate with schools and other bodies to provide careers advice.

Responsibility for specialist careers counselling is assigned under the Employment Promotion Act to the Federal Employment Office. The specialist careers counselling centres for disabled persons set up at all employment offices, dispense advice and information on questions of career choice, including a change of occupation, give individual advice on help for vocational training, procure vocational training places, and also give information about the financial benefits for vocational integration available to disabled persons. Trained careers counsellors for disabled persons may consult the specialist medical and psychological services of the employment offices in order to assess the aptitude and inclinations of the young person concerned and to obtain an indication of possible future vocational assistance requirements.

The number of disabled persons seeking advice from the careers counselling centres at unemployment offices increased by nearly 40 per cent in the ten years to 1989. In the same period, the number of disabled persons seeking vocational training places more than doubled. In 1988/89, 133,200 disabled persons visited careers counselling centres seeking advice, accounting for ten per cent of the total number of people seeking advice; of these 28,500 applied for vocational training places. By 1993-94, the number had risen to 155,500 visiting for advice, accounting for 11.3 per cent of the total, but the number among them applying for vocational training places dropped to 24,500 (West Germany). In the new Länder in 1993-94, the careers counselling centres registered 51,400 visits, 11,300 more than the preceding year, and 11.1 per cent of the total; 11,489 applied for a vocational training place.

Vocational training and occupational rehabilitation

Vocational training measures form the core of occupational rehabilitation. The general aim is to give disabled people equality of opportunity when competing with non-disabled persons for permanent employment. Broadly speaking, the aim is to ensure that disabled people meet laid down job requirements, notably qualifications, through training in an officially recognised trainee occupation under the Vocational Training Act or the Handicrafts Regulation Act. This should take place, wherever possible, in a public or private sector organisation along with non-disabled persons but it is supplemented by attendance at a vocational training college (dual training). On-the-job training can be made possible by providing training subsidies to employers.

For young people who cannot be trained in officially recognised trainee occupations, despite extra assistance and the possibility of waiving training regulations, because of the nature or severity of their disability, the regional funds may create regulations on training outside officially recognised trainee occupations. The special training courses are intended to lead to a final qualification which guarantees access to officially recognised trainee occupations; in 1995 there were 629 regulations for more than 134 occupations. At December 1993, the number of participants was 15,785 (7,209 of them in the new Länder), a substantial rise from 9,000 in 1993, and now representing about one-third, rather than one-fifth of all training agreements assisted by the employment office. A large number of these were in metal-working trades, followed by employment in housekeeping and in the building and allied trades.

While the same principles apply to the further training or retraining of adults in an alternative occupation as a result of disability, it is possible for adults to be retrained in occupations other than the officially recognised trainee occupations. As a rule, retraining of disabled adults is limited to two years. Training on the job alongside non-disabled persons, where appropriate conditions exist, is thought to offer good opportunities for lasting vocational integration since it enables trainees to grow accustomed to the conditions and demands of work and is thought likely to lead directly to employment. If the company and the vocational training centre are willing and able to provide training, and take adequate account of disability, this kind of training is

promoted for disabled persons.

The number of disabled people assisted by the Federal Employment Office and receiving training within companies has dropped in recent years: from 25,000 in 1989 to 17,543 in 1994. At December 1993, 25,374 (about 20 per cent) of 121,987 persons undergoing rehabilitation through the Federal Employment Office took part in assistance opportunities offered by companies. In 1989 the proportion was 30 per cent .

Specialist centres

The rehabilitation system in Germany is still primarily institutional. Different institutions deal with stages of the rehabilitation process and therefore different target groups.

Berufsbildungswerke (vocational training centres) provide initial training for disabled school-leavers, especially young people with learning disabilities for whom many centres are specially designated. There are 38 vocational training centres in the West and eight in the East, providing 10,500 and 2,300 training places, respectively, in 1993.

There are now 28 Berufsförderungswerke (vocational rehabilitation centres) (21 in the West) with about 15,000 places, directed mainly at adults with work experience who need vocational reorientation because of accident, injury and disability. Rehabilitation centres are financed and administered by a range of organisations, including Federal government, craft associations, insurance bodies, charities and churches. The majority of their trainees are physically disabled, most having skeletal and motor impairments or internal disorders (Seyfried, 1992). Centres are equipped with specialist (medical, psychological, educational and social) services. Courses last between six and 18 months with training provided in about 70 occupations.

In addition to the vocational assistance and vocational training centres, there are 17 medical and occupational rehabilitation centres (with some 2,800 places in 1993) where, in the case of certain (neurological) illnesses, initial steps of vocational assistance (such as career identification and work experience, preparatory measures directed at resuming employment or at retraining) are introduced during medical rehabilitation.

Participants in vocational rehabilitation

At the end of December 1993, the Federal Employment Office listed 121,987 participants in vocational assistance training measures. Table G.4 shows how those numbers compare with 1989, taking account of expansion to the new Länder (numbers given in brackets).

The proportion of women participants stood at between 31 and 34 per cent in the years from 1984 to 1992 (BMA, 1995). In 1992, 45 per cent of participants had skeletal disorders and 15 per cent learning disabilities. Over the years from 1984, the proportion of the former has grown (from 32 per cent in 1984) and the share of the latter has dropped (from 22 per cent) (BMA, 1995).

Table G.5 gives annual figures for cases financed by the Federal Employment Office (in the old federal territory).

Effectiveness of vocational rehabilitation

According to BMA (1995), placement of those who complete courses at specialist vocational training and rehabilitation centres, such as Berufsförderungswerke and Berufsbildungswerke has been shown to be high. Surveys carried out amongst former trainees one year after completion of their course, show that positive results have remained about 80 per cent on average (in a wide range of occupations) over a number of years. Overall, however, the proportion of people still without employment one year after completion of retraining has been increasing.

Success in placement rates is said to be aided by introducing participants to modern technologies such as numerical control machines, computer-controlled drawing systems, data processing equipment and

microelectronics, which offer them greater opportunities than others for employment in modern industries significant for the future. The 'hot-house' effect of intensive rehabilitative care is also thought to promote positive results. Seyfried (1992) attributes the placement rate to the efforts the rehabilitation institutions have made to co-operate with firms in providing training places or practical sessions. However, the BMA acknowledges likely future placement difficulties.

An issue is whether high rates of success are linked to the initial selection procedures. The German report to the OECD pointed to the fact that the comprehensive networks of vocational rehabilitation institutions for disabled adults are not all equipped to train persons other than with physical impairments (OECD, 1992). In general, the rehabilitation system is premised on the needs of people with physical impairments. According to the Second Federal Government Report on the Situation of the Disabled and Developments in Rehabilitation (1989), the placement ratio of young blind people leaving vocational training centres is far lower than for other disabled people who pass through those centres and they may have to take employment for which they are over-qualified. There is evidence that people with especially severe disabilities - those who

Table G.4 Participants in vocational assistance training measures, at December 1989 and 1993

	1989	1993	(New Länder)
Inside companies, including industry-wide sections	31,658	25,374	(2,252)
Vocational training centres	11,166	12,998	(2,740)
Vocational rehabilitation centres	12,362	15,463	(1,516)
Medical and occupational rehabilitation centres	152	285	(9)
Sheltered workshops for the disabled	13,592	14,823	(2,057)
Other rehabilitation centres	5,210	5,386	(5,586)
Other industry-wide rehabilitation centres	31,620	40,505	(9,181)
Correspondence courses	234	152	(16)
Total	105,994	121,987	(23,057)

Source: BMA

Table G.5 Participants in rehabilitation measures, West, by year

Year	Persons undergoing rehabilitation	Persons undergoing rehabilitation in vocational promotion measures	Completed rehabilitation cases in the course of the year
		<i>at end of year</i>	<i>annual averages</i>
1981	227,900	71,400	109,500
1982	250,900	72,900	139,000
1983	272,900	77,700	147,300

1984	277,100	78,700	163,200
1985	289,600	83,500	172,400
1986	182,100	89,500	308,000
1987	338,000	89,500	182,100
1988	342,400	100,100	202,600
1989	341,300	106,000	200,000
1990	351,300	108,400	207,300
1991	363,300	112,400	216,800
1992	438,800	143,600	231,000

Source: MISEP, 1994

are supposed to be difficult to place after completion of the training measures - are under-represented in rehabilitation measures. 'Creaming' of those with mild or unproblematic impairments may contribute to positive results. Consequently, it is difficult to identify the contribution to labour market success of the rehabilitation measures themselves (Walger, 1993).

Women are especially under-represented in vocational rehabilitation centres, one of the obstacles being the lack of child-care facilities (Niehaus, 1996). Niehaus (1996) points out that women tend to receive only low levels of temporary allowances for vocational rehabilitation because the calculation is based on previous net earnings, reflecting the orientation in the system towards men.

Special institutional facilities for vocational rehabilitation have been criticised for their expense (Stork, 1996). The cost per person per day is around DM 100.

Placement

There is no compulsion on employers to provide information on their vacancies. If they choose to register a vacancy with the employment office it must be checked for its suitability for a disabled person. The personnel department must liaise with the disabled person's representative. In the public service only, disabled applicants must be given preference if they are qualified to do the job. It has been said that these arrangements are sometimes disregarded, although strongly condemned by the courts (Floyd and North (eds) 1991).

Each local employment office has one or more specialist dealing only with severely disabled job seekers, in charge of the rehabilitation department at middle-management level. While they can offer rehabilitation, recommend special aids and obtain funding, they may lack specialist knowledge of specific disabilities and of where to place such people. In theory, they have access to medical and psychological specialist services but those are overstretched (according to a report of a workshop in Floyd and North (eds) 1991).

Research reviewed by Oyen (1989) suggested that limitations in the Federal Employment Offices affect placement. The global nature of their responsibilities makes it difficult to visit and keep adequate contact with prospective employers. Technical advisers have been found to have time only for the most acute cases. In general, the financial incentives and official services are inadequately used, according to that research review.

Contact with firms by the Hauptfürsorgestelle has also been found to be limited, particularly with small firms. In one study by Sadowski and colleagues cited by Winkler (1996) about half the firms reported no contact, and only six per cent frequent contacts. Within five years, only 16 per cent had been visited by a representative of the Hauptfürsorgestelle for information and consultation. That study found rather more contact with the employment office: 44 per cent of firms were in contact but only 35 per cent reported attempts to arrange placements of at least one disabled applicant. Stork (1996) calls for better co-ordination and co-operation between the employment office and the Hauptfürsorgestelle.

Winkler (1996) notes the low number of successful job placements: while disabled people have a six per cent share among the unemployed, the proportion of disabled people among those placed successfully by the employment offices is only one per cent. The poor quality of matching is indicated by the number of employment contracts terminated after a relatively short period, according to Winkler. He reports that the negative image of the employment office is a major impediment because many companies do not consider applicants sent by it.

Placement efforts by the local employment offices is an area repeatedly singled out for further attention in policy documents. The WHO (1990) report, for example, based on a 1984 document, states that the main plans to reduce unemployment among disabled people included intensification of the campaign to obtain employment for the severely disabled, especially during factory visits to small and medium-sized establishments; and direct approaches to employers who have not yet fulfilled their employment quotas. Currently, policy attention is focused on improving specialist help for employers by the employment offices and Hauptfürsorgestellen to encourage placement of hard-to-place severely disabled people. Improvements to placement agencies' practices are recommended by academic commentators (e.g. Frick and Sadowski, 1996).

New models of placement

For several years, special programmes have been tried at local level to improve job placement of disabled people. For example, Seyfried (1992) reported special programmes initiated by the Länder of Hamburg and Hesse for the placement of disabled people in permanent jobs in the public service.

Supported employment

Recent years have brought new models aimed at addressing the deficiency of current placement efforts. Winkler (1996) describes Eingliederungsfachdienste (specialist integration services) offering intensive placement services to ease transition from sheltered workshops or unemployment to the open labour market, the main features being improving job-search by one-to-one help, increasing employers' willingness to hire through co-operation and information, and job-coaching in employment.

At regional level, the Hauptfürsorgestelle may run such integration projects. In Westfalen-Lippe, for example, there are at least 34 projects working with people with different types of vocational handicaps. The main components are described (Schneider, 1996) as:

- job development, through proactive work with employers either to find and assess the suitability of known vacancies or to investigate possibilities with an individual in mind
- matching the job to the person, through building employee profiles and work profiles
- training suited to the individual's needs, provided by a job coach at the work site and progressively withdrawn
- co-ordination of support services
- on-going support on an 'as-needed' basis.

START projects

A different approach which has received considerable attention in the mid 1990s is the START model, borrowed from the temporary work agency founded in the Netherlands in the late 1970s. START and other temporary work agencies in Germany have been encouraged through public subsidies. They are orientated towards the unemployed and notably towards the special target groups of the long-term unemployed, unemployed aged over 50 years, and unemployed disabled people.. The aim is ultimately to obtain regular, unlimited employment contracts. The model has particular potential for disabled people who have no reduction in working capacity (Winkler, 1996). General experience has shown a transition rate for all groups of over 40 per cent, and one model reports a 71 per cent rate of transition among all contracts coming to an end. By early 1996, about 80 mostly charitable temporary work agencies of this type were receiving financial support. However, this support will not be continued into 1997.

The German model differs from the Dutch in that, due to regulations, the agency and the employee have to sign contracts of unlimited duration and the actual duration of the employment relationship has to exceed the time spent in the firm. However, there are plans for deregulation to allow deviation from this principle in individual circumstances.

Winkler (1996) spells out a number of advantages to the START model. The agency, not the employer, carries the risks which employers associate with hiring disabled people, thus reducing the uncertainty involved in the hiring decision. The agency workers benefit, through accumulating employment experience and ending stigmatising unemployment status. The agencies may develop a positive image, through intensive contacts with employers, in contrast with the mainly negative image of the employment offices.

A further opportunity for placement of disabled people is the 'social enterprise' or 'self-help firm' (see 'New Forms of Employment' below).

OPEN EMPLOYMENT: LEGAL OBLIGATIONS AND RIGHTS

Employment policy for disabled people has been unaffected by equal opportunities approaches aimed at improving employment opportunities for women and for people from ethnic minorities, which are relatively undeveloped in Germany (Floyd, 1991). Legal obligations and rights in open employment are set out within the compulsory employment framework of the Severely Disabled Persons Act and accordingly apply only to those recognised as 'severely disabled' or 'on the same footing' (see Definitions above). Thus, given that registration as a severely disabled person is based on measured functional and not work-related limitation, those who do not have occupational handicaps enjoy the some rights and support in the labour market as those who do.

The Act places duties on employers to promote and accommodate the employment of disabled people and regulates a quota scheme with a compensatory levy. Under the Act, disabled employees can have a special representative at work, rights against dismissal and the privilege of extra paid leave.

Employment promotion

The Severely Disabled Persons Act obliges all employers to examine every vacant position to see if it is appropriate for a severely disabled worker, especially a person registered with the local employment office.

The special regulations and principles for filling civil service and judicial posts are also to be formulated in

such a way that the engagement and employment of severely disabled persons is promoted and there is an appropriate percentage of severely disabled persons amongst civil servants and judges.

Under the Act, every employer must so employ severely disabled persons that they are enabled to use and develop their abilities and knowledge to the fullest possible extent and must give special consideration to the promotion of opportunities for advancement when arranging in-house vocational training programmes. Every employer must appoint a representative to act on his or her behalf; the representative must ensure that the employer's obligations are properly discharged.

It is also the duty of works, staff, state attorneys', judges' and central judges' councils to promote the integration of severely disabled people, in particular to ensure that employers' obligations to employ special categories and to promote employment are discharged.

Accommodation of disabled workers

The act also requires every employer so to install and maintain workrooms, plant, machines and tools and so arrange the work that the greatest possible number of severely disabled persons can find permanent employment. The employer is encouraged to provide part-time jobs. However, these obligations do not apply if compliance would involve 'unreasonable demands or disproportionate expense' (section 14(3)).

Quota system

Employers with a workforce of 16 or more are obliged to ensure that at least six per cent of their workforce is made up of severely disabled people. This obligation applies both to private and to public employers. There are legal provisions to vary the quota percentage according to the industry or according to geographical regions. Those provisions have never been used, despite critiques which suggest that type of industry and size of firm are major determinants of employment options for disabled people (Schröder, 1997).

The obligation to fill six per cent of all posts with severely disabled people applies to the whole of the public sector. It is recognised that it is not possible to fill the quota in certain sectors, such as the police force, customs or the foreign office; to overcome this difficulty departments are grouped together to form larger units for the purposes of calculating fulfilment of the quota (Cramer, 1991).

The Act refers to the employment of special categories of severely disabled people and Section 6(1) directs employers to employ 'to an appropriate extent':

1. Severely disabled persons whose working lives are especially affected, because of the nature or the seriousness of their disability, in particular:
 - a. those who need special assistance, on a more than temporary basis, in order to engage in employment; or
 - b. those whose employment, owing to their disability, implies exceptional expenses, on a more than temporary basis, for the employer; or
 - c. those who, because of their disability, are able, on more than a temporary basis, to render only substantially reduced output; or
 - d. those whose extent of disability is at least 50 per cent attributable to mental or psychological disturbances or to be subject to attacks; or
 - e. those who, because of the nature or the seriousness of their disability, have not completed vocational training ...;
2. Severely disabled persons who have attained the age of 50 years.

In calculating compulsory places, the employment office may count more than one, to a maximum of three, compulsory places for one severely disabled person if the integration of that person into the working environment is particularly difficult. A visually impaired person, for example, counts as two people. Furthermore, training places are not taken into account when calculating the compulsory places, although severely disabled apprentices count as two compulsory places until the year 2000. Severely disabled workers may be counted as a whole unit even when they are employed for less than 19 hours a week, if the reduced working hours are necessary on account of the disability.

The Federal Employment Office monitors the fulfilment of this obligation. Fines of up to DM 5,000 may be imposed if the obligation is not met, treating non-observance as an administrative offence. Burger and Schröder (1995) (citing Schimanko, 1990) note that of the 87,500 employers who did not meet their employment obligations in the years 1986 and 1987, in both years only one employer had to pay an administrative fine, DM 500 and DM 3500 respectively. The law in theory allows for financial rewards for exceeding the quota; implementation of this provision has been advocated by commentators.

Employers have to keep and up-date records of all severely disabled people employed. Workers' and staff representatives must be given access to them. Employers are required to provide information once a year. It is said that annual reports to parliament by the federal government and some Länder governments are effective in drawing public attention to shortcomings and force those responsible to take action (Cramer, 1991).

In 1982 the average quota attained was 5.9 per cent; by 1994 it had fallen to 4.0 per cent.

Table G.6 shows the number of severely disabled employees in different categories under the quota system, in relation to the total number of compulsory places, in 1994. Table G.7 gives data for selected earlier years.

Table G.6 Severely disabled workers employed under the quota scheme, 1994

Compulsory places	1,279,911
Severely disabled persons in employment	760,895
Persons of equal status in employment	53,419
Other employees to be taken into account	10,446
Places additionally filled by multiple assignment	37,152
Total places filled	861,912
Places not filled by severely disabled persons	505,091
Actual employment quota	4.0 %

Thus, the proportion of compulsory places filled by severely disabled people has declined over time, although among them the number of individuals 'on the same footing' has increased. The actual number of severely disabled people employed under the quota system has also dropped considerably, as shown in Table G.8.

Table G.7 Places filled under the quota scheme, by year

	West Germany 1984	1987	1988	1991	1992
Compulsory places	1,014,097	986,469	1,004,000	1,339,952	1,301,583
Severely disabled people in employment	823,839	752,630	746,500	890,701	838,088
People of equal status in employment	26,417	25,763	26,100	34,776	38,719
Other employees to be taken into account	17,688	13,072	13,600	12,019	11,639
Places additionally filled by multiple assignment	25,743	29,641	30,800	37,361	38,032
Total places filled	893,687	821,106	817,000	974,857	926,478
Places not filled by severely disabled people	264,958	287,154	305,100	475,285	478,110
Actual employment quota	5.3%	5.0%	4.9%	4.4%	4.3%

Table G.8 Severely disabled workers employed under the quota system, by year

Year	Total
1982	951,703
1983	896,808
1984	850,256
1985	811,725
1986	792,993
1987	778,393
1988	772,594
1990 (East and West)	932,462
1991 “	925,477
1992 “	876,807
1993 “	847,004
1994 “	819,314

Sources: Grammenos, 1991, table 25; BMA (1994)

Fulfilment by employers

Of the approximately 148,791 (West) and 35,461 (East) employers who were subject to the employment obligation in 1994, in October of that year 25,192 (around 14 per cent with 20 per cent of all jobs) had fulfilled their obligation. However, 76 per cent of all employers failed to meet their obligations, and 37 per

cent were not employing a single disabled person.

While the proportion of eligible employers meeting the obligation in full has dropped over the years, the proportion not employing any disabled people has also dropped, from 44 per cent in 1988 and in 1989 to 37 per cent in 1990 and 1994.

There has been a marked correlation between achievement of the quota and size of firm. In an article published in 1986, Floyd and North refer to very large firms with more than 10,000 employees achieving the six per cent quota but very small firms of between 16 and 30 employees employing on average only 2.7 per cent. Seyfried (1992) citing a 1988 source says the rate in large firms with more than 1,000 employees is almost twice as high as in small firms with up to 30 employees.

In 1994, firms with between 16 and 30 employees had an average employment quota of 2.7 per cent compared to 5.2 per cent of those with more than 50,000 employees (ZENTRAS, 1996).

Employers in agriculture and forestry, the construction industry, transport and communication, and in retail business and wholesale trade, as well as in banking and insurance, are most likely to fall below the six per cent quota. Employers in energy and mining usually fulfil their legal obligation (Frick and Sadowski, 1996b).

The quota obtained in the public sector is higher than that in the private sector: 5.2 per cent (5.7% West, 3.4% East) as opposed to 3.6 per cent (3.8% West and 2.4% East) in 1994. As Table G.9 shows, the public sector attainment has been consistently higher over the years. The average attained by federal government agencies in 1994 was 6.4 per cent; the federal government therefore was not required to pay a levy. The situation in the Länder administrations is variable, however, ranging from 2.9 per cent (Thüringen) to 7.2 per cent (Saarland) and averaging 4.5 per cent in 1993. As part of the federal government's effort to employ severely disabled people in public agencies and enterprises, all public sector institutions are to fulfil their quota of six per cent, in order to serve as an example to the private sector (Burger and Schröder, 1995).

The quota attained has declined since 1982 when the average attained was 5.9 per cent.

It is necessary to note that, as the number of unfilled workplaces exceeds the number of disabled jobseekers, complete fulfilment of the quota is impossible.

The quota system favours the retention of existing workers rather than the recruitment of severely disabled people. Brandt (1984) found that three out of four severely disabled workers applied for disability status when they were already employed, often encouraged by their employers to do so. Oyen's 1989 review of the research confirmed that most disabled employees are 'taken on' not from outside, but within the firms, that is long-serving employees who become disabled during their active service. Similarly, Sadowski and Frick (1992) found that 82 per cent of the severely disabled people employed by companies are 'recruited internally'; moreover, severely disabled people stay with their employer for longer (37 per cent of the severely disabled and only 18 per cent of the total employees had been with their present employer for at least twenty years).

A high proportion of employers do not recruit any severely disabled people from the external labour market: between 1978 and 1982 more than two-thirds of employers recruited no disabled people from outside (Brandt, 1994). Burger and Schröder (1995) cite findings by Sadowski and colleagues from a 1989 survey of 892 employers, showing that only 0.8 per cent of new recruited employees were disabled. Small and medium-sized enterprises, however, can encounter problems in creating suitable work-places and work for severely disabled people.

The compensatory levy

The purpose of the levy is twofold: to serve as an incentive; and to meet an 'equalisation' (or redistribution) objective, that is, to distribute the employment costs of disabled workers equally among firms.

Table G.9 Employment quota annually attained, by sector

Year	Quota in West	Total Quota	Private	Public
1983	5.7		5.4	6.5
1984	5.3		5.0	6.2
1985	5.0		4.7	5.9
1986	5.2		4.8	6.1
1987	5.0		4.7	5.9
1988	4.9		4.6	5.8
1989	4.8		4.3	6.0
1990	4.5		4.1	5.7
1991	4.4	4.4	4.0	5.3
1992	4.4	4.3	3.9	5.2
1993	4.3	4.2	3.8	5.2
1994	4.3	4.0	3.6	5.2

Since October 1990, the compensatory levy payable by employers who fail to meet their obligation has been DM 200 per month for each unfilled compulsory place. Until August 1996, an employer placing contracts with a sheltered workshop for disabled people or a workshop for the blind was able to deduct 30 per cent of the amount appearing on the bill from any equalisation contributions he or she was liable to pay. Now the deduction allowed is 50 per cent of the costs of labour on the bill.

The revenue from the compensatory levy - around DM 976 million in 1992 ? is used primarily for the engagement and employment of severely disabled people, which means that the greater part of it is returned to employers. Employers who do not have enough employees to be covered by the law but still employ severely disabled workers may also benefit from the levy. A 55 per cent share goes to the main regional welfare funds where it is used for benefits to boost the supply of jobs and training places for severely disabled people, benefits towards supplementary assistance in the working environment and other measures for the integration of severely disabled people. The other 45 per cent of the revenue is invested in the Compensation Fund set up by the Federal Minister for Labour and Social Affairs to promote nationwide measures for the integration of severely disabled persons in employment, trade and society. The Compensation Fund allocates to the Federal Employment Office the means necessary for special promotion of engagement and employment of severely disabled people. In addition, it promotes nationwide model projects.

It has always been the case that a majority of employers has preferred to pay the levy rather than meet the full quota. At the current level, paying the levy makes economic sense for many employers, especially in an insecure economic situation. There has been debate over the potential incentive effect of increasing the levy from DM 200. Oyen (1989) quotes studies which found 70 per cent of employers saying it is easier to pay the compensation, with only one in 25 expecting any effect from a doubling of the compensation (from DM 100 to DM 200 at that time). The employment level decreased after the sum was raised to DM 150 in 1986. The

main umbrella group for disabled people's organisations (the Bundesarbeitsgemeinschaft Hilfe für Behinderte) has consistently argued for a substantial rise. Various formulae have been proposed for linking the level of the levy to the average salary of the firm in question or to a proportion of the annuity insurance (Frehe, 1995). Research commentators (for example, Niehaus, 1997) have proposed an increase to DM 400 per month alongside a reduction of the target to five per cent.

Protection against dismissal

Severely disabled persons in employment have special protection against unfair dismissal. This commences six months after the start of employment. The employer is obliged to obtain the approval of the relevant administrative authority (Hauptfürsorgestelle) before giving notice of dismissal. The intention is to check whether that is the only option, to examine all forms of assistance which might secure continuing employment and to weigh up the interests of both parties. Should these measures serve to show that the continued employment of the severely disabled person is unreasonable, given the circumstances of the individual case, the dismissal is approved. Before an application is approved the local assistance council, the works council, the individual concerned and the disabled person's representative in the organisation must be consulted.

The Hauptfürsorgestelle must also be involved before a severely disabled civil servant or judge may be retired prematurely or dismissed, although its approval is not required.

It should be noted that a more general Protection against Dismissal Act applies to employees in companies with a workforce of more than ten (recently changed from five) who have worked there for more than six months. In addition, if a works council exists in a company, its view has to be heard in accordance with the Workplace Labour Relations Act, prior to any dismissal by the employer (MISEP, 1992).

The number of applications for dismissal stood at 40,000 in 1982 (Frick and Sadowski, 1996b). By 1986 it dropped to 21,000 and to 14,000 in 1989 but, after a steady rise, in 1993 the number stood at 32,000 (ZENTRAS, 1996). Rises reflect periods of economic downturn. In 1993 in 51 per cent of the cases the application was approved, with or without the consent of the disabled person; and another 29 per cent of dismissals were unavoidable because of plant closures and retrenchment (ZENTRAS, 1996). The effectiveness of the special protection against dismissal seems to be limited in periods of economic downturn when the Hauptfürsorgestellen are relatively powerless in face of plant closures. Winkler (1996) notes that inflows into unemployment indicate a slight erosion of job security for disabled people with a 3.7 per cent share of inflows compared with a three per cent share of the workforce. However, it is hard to estimate how many dismissals have been prevented by the procedure laid down in the act.

Opinions on the Severely Disabled Persons Act included in surveys cited by Oyen (1989) show that the special protection against dismissal is considered to be the most important feature. Disabled people believe that this makes their position more secure. The statements of many employers, that they make more effort to find further employment for this group than for the able-bodied, confirm this. On the other hand, employers think this protection is a hindrance for recruitment, since it makes it, in effect, impossible to dismiss disabled people. They appear particularly reluctant to hire severely disabled people in times of recession because of assumed difficulties of dismissal. In one study, more than 70 per cent of the employers reported that the special employment protection reduced their willingness to hire (Brandt, 1984). However, the fact that six out of seven do eventually leave (two-thirds by special agreement) after the conclusion of the legal procedure contradicts the opinion that disabled people are, de facto, not dismissable.

Sadowski and Frick (1992) suggest that 'it is not so much the existence of specific protective regulations which have a positive effect on the chances for further employment of a disabled person in danger of dismissal, but rather the behaviour of the group representatives during the statutory dismissal procedure'

(p.15). They found that the position statements of the employees' or personnel committees, and - although to a lesser extent - the disabled people's representatives, have a 'decisive influence' on the final result of the dismissal procedure. However, in all about 80 per cent of the procedures end with the loss of the job for the disabled person.

Disabled persons' representative

The special interests of severely disabled people are looked after by works and staff councils in the public and private sectors. (Similar arrangements apply for judges and state attorneys.) Where more than five members of permanent staff are severely disabled, a representative for the severely disabled is elected to act in an honorary capacity as spokesperson for the disabled. The main task of this representative is to monitor adherence to all provisions in favour of disabled people and to support disabled employees by providing advice and assistance. The representative must maintain constant contact with the Federal Employment Office and with the Hauptfürsorgestelle and co-operate closely with these authorities. The representative has the right to organise a meeting of severely disabled workers at least once a year.

Employers should normally ensure that these representatives are consulted when determining whether vacant jobs or training places might be suitable for severely disabled people, particularly those who are registered with the unemployment benefit office as unemployed or seeking employment. The representatives are entitled to be fully informed and to be heard. If action is taken without their involvement, it must be suspended until they have been consulted as required. The severely disabled person's representative must be included in all monthly discussions between the employer and the representatives of employee interests, since these may deal with matters affecting the severely disabled. The expenses incurred are borne by the employer.

Oyen (1989) reports deficiencies in the company support staff. Some firms fail to designate an employer's representative or to permit the election of a representative for the disabled staff. The employer's representatives are mostly selected from the personnel department; staff and disabled people's representatives consider their activities to be worthless for disabled employees.

The most important support staff are the elected representatives. They support the integration of disabled people in the firm, represent them in the company or location, and generally advise them. However, only 32 per cent of establishments covered by the quota system have a disabled person's representative (and only 38 per cent a works council) according to a source cited by Burger and Schröder (1995). Although they usually perform to the satisfaction of the disabled workers, they are rarely active in recruitment, and often not informed - as required by law - about job applications from disabled people. This situation was tightened up in an amendment to the law but its effectiveness remains in doubt. Sadowski and Frick (1992) report that employers inadequately fulfil their obligations of information and participation towards employees' representatives, and that the principal aid and employment agencies also tend to ignore staff councils and disabled people's representatives. Stork (1995) suggests that the influence of disabled persons' representatives and works councils has declined, in part because of the primacy of economic rationale in recruitment decisions but also because of less faith in these institutions on the part of disabled people.

Right to extra leave

A severely disabled person (but not a person 'on the same footing') is entitled to an extra five working days' leave with pay, pro rata. This type of provision, intended to favour disabled people, may adversely affect the chance of employment through reducing employers' willingness to hire because of the extra costs involved (Winkler, 1996).

OPEN EMPLOYMENT: FINANCIAL MEASURES

Wage-cost subsidies of several types are paid to employers and administered by the Federal Employment Offices, which have separate departments specialising in placing unemployed disabled people. Disabled people are also one of the groups of difficult-to-place people for whom subsidies are available through job-creation schemes financed through the employment offices.

In addition, there is a scheme for paying assistance to disabled employees and employers, using the compensatory levy, administered by the Hauptfürsorgestellen, including investment subsidies for newly created workplaces and adaptations, and compensation for diminished performance or extra expenses.

Support for employers

Temporary wage-cost subsidies

Where employers engage severely disabled persons (from the special categories listed in the Act (cited above), long-term registered unemployed, part-time recruits and people employed for vocational or training purposes) they may be entitled to receive wage cost subsidies from the Federal Employment Office of up to 80 per cent of the wage paid to the severely disabled person and up to 100 per cent of the training allowance. The reason for compensating the employer for employing someone with a severe disability was to cover any extra costs, such as entitlement to an extra five days' leave.

The subsidies are paid on a sliding scale, for up to three years. The norm is a subsidy of 80 per cent of the gross wage during the first year, 70 per cent in the second, and 50 per cent in the third year of employment. Employment must continue after the subsidy ceases, otherwise the subsidies have to be repaid (Seyfried, 1995).

From July 1986, when it was first introduced, to the end of 1988 this assistance had enabled 10,350 severely disabled people, 900 of them trainees, to be integrated into working life (second Federal Government Report, 1989). The cumulative total from 1 July 1986 to the end of 1993 was 47,331 integrated disabled persons, of whom 2,444 were grant-aided trainees (MISEP, 1994).

Local legislation may offer greater levels of subsidy. In North Hesse for example, employers are exempt from paying the salaries of severely disabled people for three years, after which time they must be placed in an ordinary post (Floyd and North (eds) 1991).

Compensation for diminished performance

As distinct from wage-cost subsidies, provision is made for employers to be compensated, from the Compensatory Levy Fund, for diminished performance up to a maximum of DM 800 per month, applying to disabled people already working for the firm, rather than new employees, and outlasting the three year subsidy period. In principle this has no time limit, although in practice the actual performance and productivity are reviewed after two years at the latest and the sum adjusted if required (Seyfried, 1995).

Job creation wage subsidies

The Federal Employment Service runs programmes to create jobs for difficult-to-place unemployed people - older workers over the age of 50, younger unemployed people up to the age of 25 who have not completed vocational training, long-term unemployed, and severely disabled people. The projects promoted must benefit the community and be 'additional' in the sense that they would not otherwise have happened. Subsidies of between 50 and 75 per cent of wages are payable, but since the introduction of the Employment Promotion Act 1994 only 90 per cent of wages for comparable unsubsidised work are considered.

Exceptionally, subsidies are paid up to 90 or even 100 per cent of this amount for difficult to place unemployed people. As a rule, aid is given for one year, but it can be set at or extended to two years. Aid can be extended beyond two years if permanent jobs are created (MISEP, 1994).

Use of this job creation measure is increasing in the former East Germany. In 1991, the average number of persons in subsidised jobs was 82,960 in the former West Germany and 183,324 in the former East Germany (MISEP, 1992). By 1994 and 1995, the numbers were only 57,400 and 70,100 in the former West but 280,200 and 312,000 in the former East. In the former East, 106,500 of participants in 1995 were in a new type of measure - 'productive wage cost subsidies' - which are paid projects in protection of the environment and social services for up to two years, with remuneration closely linked to the level of unemployment allowance. In the future, in part because of budget restrictions on the Federal Employment Office, schemes in the East will be reduced and brought into line with number in the West.

Proposals in the Labour Promotion Reform Bill, likely to enacted in 1997, will further restrict the wages considered in calculating the subsidy (between 30 and 75 per cent with exceptions possible) to 80 per cent of 'usual wages'.. In future, at least 95 per cent of participants in job creation schemes will have to have been unemployed for one year or longer (with certain exceptions).

Effectiveness of wage subsidy programmes

In general, the effectiveness of wage-subsidy programmes is found to be limited, with employers viewing subsidies as windfall profits (Frick, 1992). The majority of grants are given to a relatively small number of (large) firms (Burger and Schröder, 1995). Analysis by Frick (cited by Burger and Schröder, 1995) of the special programmes between 1976 and 1986 showed that 75 to 85 per cent of placements would have taken place without any subsidisation.

Workplace adaptation and creation

Support for employers for workplace adaptation and creation, financed from the Compensatory Levy Fund, has grown markedly since the early 1980s.

In 1990, approximately 10,000 job accommodations and creations were financed by the Hauptfürsorgestelle (Frick and Sadowski, 1996b).

However, it is said that employers lack the necessary knowledge to put the measures into effect and that more counselling and technical assistance may be required (Stork, 1995). A recent initiative was a declaration by employers' associations together with the association of the Hauptfürsorgestellen to work towards the creation of workplaces for disabled people from January 1995, with a special focus on the supplementary assistance available for employers (Stork, 1995).

Table G.10 Financial support to employers (West) for workplace adaptation and creation, in DM million, by year

Year	Adaptation	Creation	Total
1980	6.3	2.7	9.0
1982	15.9	6.3	22.2
1984	13.8	9.8	23.6
1986	17.7	16.0	33.7
1988	34.0	25.8	59.8
1990	45.0	39.5	84.5
1992	56.5	43.8	100.3

1993	67.1	51.5	118.6
1994	73.8	59.4	133.2

Source: Stork 1995

Support for employees

Combining work and social insurance benefits

Claimants of disability benefits can enter into a 'step-wise rehabilitation' which involves working gradually increased number of hours over a specified period of time. A formal contract is drawn up between the employer and employee specifying the hours to be worked, start and end dates, and the level of salary to be paid. Earnings are deducted from benefits. Because benefit entitlement continues throughout the period of rehabilitation, there is no break in claiming, and benefit can be restored to the previous level if the attempt at rehabilitation does not succeed. This form of rehabilitation is regarded as being particularly successful. Employees report greatly increased levels of confidence when they return to the workplace (Dean, 1990).

Supplementary assistance to employees

To facilitate the taking up of employment, forms of assistance available to the disabled person include help with costs linked with applications and removal expenses, assistance with daily travelling expenses between home and place of work (for a maximum of two years), transitional allowances, technical aids at the workplace and acceptance of accommodation expenses. The scheme also includes grants for buying a vehicle up to the full purchase price.

Supplementary assistance in the working and professional environment is implemented by the central welfare funds or on their behalf by the Hauptfürsorgestelle in close co-operation with the Federal Employment Office.

In 1993, funds from compensatory levy revenue were used for individual assistance (including payments made to employers) within the framework of supplementary assistance as follows (1989 figures in brackets):

DM 12.9 (4.5) million for technical aids

DM 5.9 (6.1) million in assistance to reach the place of work

DM 2.8 (2.5) million in assistance for promoting economic independence

DM 24.9 (13.4) million in assistance for equipping the home to meet the needs of the disabled person

DM 0.2 (0.1) million in assistance towards maintaining employment

DM 1.8 (1.8) million in assistance for special requirements resulting from disability

DM 135.2 (59.9) million in benefits to employers for the creation of jobs and training places and equipping the workplace to meet the needs of the disabled employee

DM 50.0 (2.3) million in benefits for the implementation of explanatory, educational and training measures.

Cramer (1991) notes the importance of the levy in supporting costs of special staff to read to, assist or look after a severely disabled person.

In addition to the financial assistance provided by the central welfare funds, other forms of assistance include counselling of severely disabled persons, mainly at work, and company visits. The central welfare funds are also able to involve independent funds in psychological and social care as part of their supplementary assistance programme in the working environment, not only for psychologically disabled people but for all severely disabled people and people of equal status. Psychosocial assistance, previously the sole

responsibility of the Hauptfürsorgestellen, may now be delegated to independent organisations (Stork, 1995).

That said, a report cited by OECD in the context of measures to supplement wage-subsidy schemes, 'revealed a special employer concern for adequate preparation and follow-up support, and stressed the importance of supportive assistance to achieve access to in-company training for persons with disabilities' (OECD, 1992, p.28).

Home working

Incentives to encourage disabled people to engage in activities include the grants made under the Integration Assistance Ordinance for the exercise of an activity at home. In all other respects, work done at home by disabled people is subject to the general provisions of the Home Work Act (Council of Europe, 1990).

Self-employment

EC (1988) reports that in some circumstances severely disabled people may obtain loans from the social assistance authorities to carry on an occupational activity which enables them to lead an independent life.

SHELTERED EMPLOYMENT

The Severely Disabled Persons Act served to regulate sheltered workshops, which had been instituted from the 1960s mainly by church or parents' organisations. Workshops are now run mainly by independent bodies although they may be set up by public bodies. Most are run by large and well established disabled organisations (Spastics Society, Help for the Mentally Disabled) (Frehe, 1995). In the former East Germany employment of disabled people in 'sheltered' sections within firms was one form of sheltered work. After unification, some of these arrangements were maintained, temporarily, while in other cases, where the firm ceased or reduced functioning, the workers were incorporated into sheltered workshops

The sheltered work sector in Germany expanded throughout the 1980s and 1990s. In early 1996 BMA reports 621 workshops, including those provisionally recognised, with about 150,000 disabled people. Further growth is planned, notably for the former East Germany where the target is 30,000 places in total.

The legal status, lack of rights to protection, low remuneration and limited participation in management decisions of workshop employees were matters for concern until the reform of Social Assistance brought major improvements. The reforms came into force in August 1996.

Aims and target group

Sheltered workshops afford disabled people who cannot (yet) enter or re-enter the labour market on account of the nature or severity of their disability an opportunity for employment or to engage in a suitable activity (section 54(1) of the Severely Disabled Persons Act). A workshop must enable a disabled person to develop, improve or recover his or her ability to work and to achieve a level of remuneration appropriate to his or her capacities. It shall normally have available the widest possible choice of jobs and training vacancies and shall be equipped with support services (section 54(2)).

Workshops are open to all those disabled persons, irrespective of the nature and severity of their disability, who are capable of doing a minimum amount of economically useful work (section 54(3)). The status of 'severely disabled person' is not required for entry. People are referred to workshops by the local Federal Employment Office special section for disabled people, but referrals must be ratified by the workshop's technical committee. Those who need a lot of support, special equipment or personal assistance and fail to qualify are referred to day centres or special remedial groups in or outside of sheltered workshops.

With the 1996 reforms, there is now a legal claim to employment in workshops, if sufficient places are available and certain individual preconditions are met.

Within each workshop there are three units. In the assessment unit decisions are taken about training needs or the most appropriate work. In the vocational training unit productive and social skills are improved over a period of up to two years, so that trainees are then in a position to deliver the minimum amount of economically useful work. Rehabilitation benefits, mostly awarded through the Federal Employment Office, are available for these two stages, for up to a total of two years. Production units are intended to offer a wide variety of jobs, where social and vocational rehabilitation continues to be pursued (Samoy, 1992). It seems that over 80 per cent of places are in the production units overall, according to a source cited by Samoy.

Samoy (1992) suggests there is a tension in the aims of workshops, reflecting the different concerns of their sponsors: the Federal Employment Office sees the workshops as production and achievement orientated, while those operating within the Social Assistance Act are orientated towards care, guidance and social integration. There has been criticism of workshops for increasing over-concentration on productivity aims, although workshops face new competition in the market for their products. Eckert (1996) also reports criticism of segregation rather integration.

Provision and funding

The Order for Implementation of August 1980 set out in considerable detail the rules for workshops, including minimum size of 120 workers, staffing ratios, staff qualifications and recruitment arrangements. Workshops must be recognised by the Federal Employment Department, in agreement with the social assistance authorities. Workshops can be independent, or autonomous parts of residential homes or companies (Samoy, 1992).

In 1994, there were 470 and 170 workshops in the former west and east Länder, with approximately 120,000 and 18,000 workers respectively. Samoy (1992) notes that eastern workshops needed to amalgamate to attain the minimum size of 120 workers. Numbers of people in workshops in the west grew steadily throughout the 1980s. In 1982 there were 67,000 places (in 300 workshops) (Eckert, 1996). By 1986 the number reached 94,800, and in 1989 it was 114,000 (Grammenos, 1991). It stood at 125,000 in 1991 (Samoy, 1992).

Sheltered workshops are financed by their own economic activities, subsidies from the Federal Employment Office, subsidies from the regional social assistance authorities, subsidies from the Compensation Fund and donations (Lheureux, 1991).

With the reform of Social Assistance, as from August 1996, 70 per cent of revenues have to be used for wages and the remaining 30 per cent for the purposes of sheltered workshops.

Labour conditions

With the reform of Social Assistance, disabled people in workshops obtain a new employee status, notably with regard to working time, paid leave, and continuity of wage in case of sickness. Previously disabled people working in workshops did not usually have a standard contract of employment and were not legally employees.

Wages in the production units were paid by social assistance authorities, under social legislation. In 1991 wages amounted to an average DM 246 per month, depending on the performance of each individual. Frehe (1995) reports that in most sheltered workshops pay was then well below subsistence level, with the social authorities keeping back DM 60 of the DM 246 per month.

Employees

Data from a survey of BAG workshops (members of the workshops association), capturing more than 400 workshops with about 86 per cent of all places and 130,000 employees, shed some light on the characteristics of the employees (Anders, 1996). In December 1994, about 69 per cent were aged between 20 and 40 years and 28 per cent were over 40 (only 11 per cent were older than 50 years). A similar survey undertaken at the end of 1987 by BAG/WfB, covering 87,244 employees from 377 workshops in the former west Germany, found a rather younger population: nearly half were between 20 and 30 years of age and a quarter between 30 and 40. Only 20 per cent were over aged 40.

In the 1994 survey 58 per cent of the workers were male (57 per cent in 1987), a smaller proportion than in the working population of both disabled and non-disabled people.

The vast majority, 80 per cent, were mentally disabled, 12 per cent mentally ill, and seven per cent physically disabled. People with very severe and multiple disabilities made up eight per cent.

Activities

The REHADAT databank (instituted with the support of the Federal government) provides an overview of workshop activities and products. Activities concentrate on sub-contract work, with a turn-over share of nearly 70 per cent (Istanbuli and Semmt, 1994). Most of the workshops offer packing and dispatching (94%), metalworking/electrical products (92%), woodworking (72%) and horticulture/landscape conservation (67%). According to REHADAT, many workshops use new technologies and production techniques such as Computer Numeric Control and Desk Top Publishing.

‘Own products’ are mainly craft work. The low share of own manufacturing, as opposed to subcontracting is said to result from limited experience in marketing.

Transition

While most users of sheltered workshops receive long-term employment and care within the workshop setting, ‘high performance’ employees are offered special training and rehabilitation measures with the aim of placement in the open labour market. But only about one per cent make the transition to the open labour market due to the workshops’ interest in keeping their key workers, alongside deficits in placement services and the reluctance of employers to recruit (Winkler, 1996).

Recently specialist integration services (Eingliederungsfachdienste - see also ‘placement’ above) have been tested and proved effective in fostering the placement of some workshop employees in the open market. These services provide help tailored to the individual, including support in job-finding, assistance on the job and, if necessary, crisis intervention. They take a proactive approach to seeking out jobs, and offer advice to employers and co-workers.

OTHER FORMS OF EMPLOYMENT

Social enterprises

Also known as ‘self-help firms’, social enterprises have developed in Germany since the early 1980s. The concept and operation of social enterprises are described by Seyfried (1995).

Social firms have been established to provide normal jobs, with regular contracts and wages in accord with collective agreements, for disabled people in firms where non-disabled people are also employed. They aim to meet the needs of people who are unable to cope with the job requirements of the open labour market and who do not fit into sheltered workshops. They are run by non-governmental organisations, brought together in 1985 in a national umbrella organisation (FAF). They operate as economic enterprises, drawing on subsidies available through the compensatory levy fund which are available to all firms. The working environment is adapted to the needs of individual workers and, increasingly, social enterprises provide ‘rehabilitation on the job’.

According to Seyfried (1995) at the beginning of 1994, there were around 115 social enterprises providing employment for 2,333 people. Of these, 1,248 were disabled workers with permanent jobs and regular contracts. A further 422 jobs were held by disabled people primarily dependent on social security payments or pensions. The remaining jobs were held by non-disabled people.

Most social enterprises were created for people with psychiatric disabilities, a group which is typically excluded by sheltered workshops and by normal firms.

Seyfried reports that most social enterprises are small: about 40 per cent employ less than ten workers, with the majority employing between ten and twenty. The largest operate in the industrial sector, where the average number of employees is just under 30; in all the industrial sector employs almost half of all disabled people in social enterprises. About 20 per cent are active in the retail sector; the rest mainly in skilled manual trades and catering.

While social enterprises principally offer long-term employment opportunities, they can also serve as a staging post. Studies reported by Seyfried show that almost half of the disabled people employed in social enterprises left their jobs over a period of five years; about 40 per cent of those started work in the general labour market. The drop-out rate was about 20 per cent.

Semi-sheltered employment

Quiet apart from social enterprises, there are examples of disabled people placed in separate departments within firms. In the 1980s, Seyfried and Lambert (1989) found that the legislation protecting severely disabled employees at work meant that many companies maintain special departments which employ severely disabled people, notably companies characterised by particularly hard-working conditions. These departments for the most part employ older ‘physically worn-out company employees’ rather than reintegrate them into the company. However, they found innovatory companies beginning to provide training and opportunities for qualifications in workshops within the company. According to Stork (1995) ‘sheltered departments’ continue but in his view there are few prospects for expansion.

‘Half-way’ employment

The Federal Government recognises the particular needs of those severely disabled people for whom neither mainstream nor sheltered employment is possible or appropriate, notably older people, long-term unemployed and those with low qualifications. For them, a national pilot project is envisaged: a ‘half-way’ house where work, qualifications and assistance may be obtained. The project will be financed from the compensatory levy fund.

SUMMARY

In Germany the legislative approach to employment of disabled people remains influenced by historical rehabilitation objectives of social insurance funds. The social code (1975) guarantees a 'social right' to integration for any person who is physically, mentally or psychologically disabled, or threatened by disability. Four principles are repeatedly emphasised in policy statements: the aim of enabling people to live normally and independently, depending on benefits as little as possible; the principle of offering assistance whatever the cause of disability; intervention at the earliest possible stage; and assistance tailored to individual situations and needs. An exception to the principle of individually tailored help is the Severely Disabled Persons Act which relates to all those who demonstrate a degree of disability of at least 50 per cent, even if working performance is not reduced - in order, it is said, to compensate for disadvantages facing disabled people in employment. The Act also includes those with a degree of disability of between 30 and 50 per cent if disability affects their ability to obtain or retain a job, termed those 'on the same footing'.

Considerable stress is placed on the concept of rehabilitation, and the central importance of vocational training and retraining. A second strand of policy is compulsory employment, a feature of legislation for disabled people since the end of World War I. Compulsory employment legislation underwent its last major revision with the Severely Disabled Persons Act of 1974, following the failure of previous quota and registration systems to fill the required level of jobs.

The Act extended to all severely disabled people and introduced a compensation levy to be paid by employers who did not meet the quota. Following some public controversy, the Act underwent minor amendment in 1986, when the means of distributing the compensatory levy to aid integration were also revised. After Unification, the laws obtaining in the former West Germany were extended to the former East Germany. The levy was set in October 1990 at a compromise rate of DM 200 per unfilled place per month.

In 1994, the Constitution was amended to state that no person may be discriminated against on grounds of disability. Although primarily symbolic, the amendment supports the aim of rehabilitation.

At federal level the Ministry of Labour and Social Affairs is responsible for vocational integration and laws relating to disabled people. The Federal Employment Office, under the legal supervision of the Ministry, is responsible for employment, careers advice and job placement, and advice and placement in training; special sections for severely disabled people have been established within local offices. The welfare agencies of the Länder also play a role in vocational guidance, placement and company visits. The compensatory levy funds subsidies and services for employees and employers distributed by these welfare agencies. The situation is complicated by the continuing responsibilities of social insurance funds for rehabilitation services and finance. Finally, the Ministry of Finance plays an important role in the field of tax benefits for disabled people.

In principle, disabled people have access to mainstream benefits and services in the first instance, unless their disability requires special measures. Until recently, all disabled people had a legal claim to rehabilitation benefits but from 1997 only registered disabled people have such a right; only about one in ten of participants in vocational rehabilitation measures are registered severely disabled people.

In Germany, education for disabled children is mainly in special institutions designed for children with different impairments. Vocational guidance begins at school; the Federal Employment Office is legally obliged to co-operate with schools and other bodies providing careers advice. Specialist careers counselling centres are at all its local offices; in 1993-94, 11.3 per cent of those seeking advice were disabled. The aim for a young disabled person is training in an officially recognised trainee occupation, alongside non-disabled workers, with attendance at training college. There is also provision to create training outside officially recognised occupations which still leads to qualifications. Disabled adults may undergo further training or

retraining in occupations other than official trainee occupations. At the end of 1993, 25,300 disabled people were undergoing on-the-job training, representing about 20 per cent of disabled people undergoing rehabilitation through the Federal Employment Office, a drop from 30 per cent in 1989.

Special centres for vocational rehabilitation, financed and run by a range of organisations including federal government, craft associations, insurance bodies, charities and churches, are of two types. For the initial training of young disabled people, in 1993 there were 38 vocational training workshops with around 10,500 places in the West and eight with 2,300 places in the East; 19 centres are specially designated for people with learning difficulties. The 21 vocational retraining centres with 12,000 places (West) and seven with 2,000 (East) are for adults no longer able to pursue their previous occupation, the majority physically disabled. Placement and continuing employment rates are high but the proportion without employment after completion is increasing. Comprehensive benefits are available to trainees.

Specialists at local employment offices arrange placement with employers. If employers choose to register a vacancy with the employment office it must be checked for its suitability for a disabled person, in liaison with the disabled people's elected representative. Placement is an area repeatedly singled out for further attention. Some Länder have initiated special programmes for placement of disabled people in permanent jobs in the public sector. New placement models include 'specialist integration services' to ease transition from sheltered workshops or unemployment, and temporary work agencies, orientated towards the unemployed.

Legal obligations and rights are set out within the framework of the Severely Disabled Persons Act and accordingly refer only to those registered as severely disabled and those on the same footing. Employers are obliged to examine every vacant post for its suitability for a severely disabled worker. They must employ severely disabled people in a way that enables them to use and develop their abilities to the full. The Act also requires every employer to maintain the plant and arrange the work so that the greatest possible number of severely disabled people can find permanent employment, unless compliance involves unreasonable demands or disproportionate expense. Staff councils are also obliged to promote the integration of disabled workers and to ensure that employers carry out their obligations. The Act specifies a particular duty to integrate special categories, notably people who need special assistance or exceptional expenses, with substantially reduced output, whose disabilities are attributable to mental or psychological disturbances, who have not completed vocational training, and people aged 50 and over.

Employers of 16 or over employees are obliged to ensure that at least six per cent of their workforce is made up of severely disabled people. The employment office has the discretion to count as a maximum of three places a post filled by someone whose integration is particularly difficult; blind people and apprentices count as two places, for example. Public sector departments may group together into larger units for the purposes of calculating fulfilment of the quota. Of the 184,000 employers subject to the employment obligation in 1994, around 14 per cent had filled their quota, accounting for 20 per cent of all jobs. However, 76 per cent failed to meet their obligations and 37 per cent were not employing a single disabled person. The overall average quota attained in that year was 4.9 per cent, having dropped annually from 5.9 per cent in 1982. The quota attained in the public sector is generally higher than in the private sector. Large firms attain a much higher quota than very small firms.

The compensatory levy is intended to serve both as an incentive and as an 'equalisation' instrument. An employer placing contracts with a sheltered workshop or workshop for the blind may deduct from the due levy 50 per cent from the labour costs billed. The revenue, around DM 975 million in 1992, is used primarily for the engagement and employment of severely disabled people. Employers too small to be covered by the law may also benefit from funds redistributed via the levy.

The Severely Disabled Persons Act also specifies the rights of disabled employees. A severely disabled person (but not a person on the same footing) is entitled to five days' extra paid leave. Special protection

against dismissal means that the employers must consult widely inside and outside the organisation and obtain the approval of the relevant authority before giving notice. Of the 32,000 applications for dismissal dealt with in 1993, over half (51%) were approved and a further 29 per cent were unavoidable because of plant closures or retrenchment. A representative of severely disabled people's interests must be elected in firms with more than five severely disabled staff. The representative monitors adherence to provisions in favour of disabled workers, advises and supports disabled employees, and maintains contact with the external agencies. Employers must consult representatives about vacancies and training places and include them in monthly employer-employee meetings.

Wage-cost subsidies of up to 80 per cent of the wage and 100 per cent of the training allowance are payable for up to three years; employment must continue for a further year. Between July 1986 and the end of 1991, 47,400 people benefited. There is also a separate compensation scheme for diminished performance of those already in work. Severely disabled people are one of the 'difficult-to-place' groups in wage subsidised job creation programmes. There is also assistance payable to employees and employers for technical aids, reaching the place of work and for special assistance at work. It is possible for a disabled person to enter work gradually with only proportionate loss of disability benefit.

In general, research has shown that German measures are particularly effective in ensuring that severely disabled people and people who become disabled while in work retain their employment. Most of the severely disabled employees are long-serving employees who become disabled while with the firm. The system appears to be less satisfactory in aiding recruitment. Unemployed disabled people are on average older and out of work for longer than the total unemployed population. The protection against dismissal which sustains disabled people in the workplace is considered one of the deterrents to recruitment. The disabled people's representatives are less active in recruitment, and employers and employment agencies do not all fulfil their obligations to them in matters relating to recruitment, according to research.

Sheltered workshops, regulated by law in 1974, afford disabled people who cannot, or cannot yet, enter or re-enter the labour market an opportunity for employment or to engage in a suitable activity. They are open to all those, irrespective of nature or severity of disability, capable of a minimum amount of useful work. Each workshop has assessment, training and production units, through which workers progress, and sometimes a day unit for the most severely disabled. Subcontract work makes up 70 per cent of activities. According to BMA in early 1996 there were 621 workshops with about 150,000 places in the unified Germany. Expansion from 18,000 to 30,000 places is planned for the former East Germany. About 80 per cent of employees in sheltered workshops are mentally disabled. About 70 per cent of employees are aged between 20 and 40 years.

The reform of Social Assistance, which came into force in 1996, introduced improvements to meet concerns about the lack of legal status as employees, lack of rights to protection at work and the low rates of pay in sheltered workshops. The low rate of transition to open employment (about one per cent) is being tackled by new specialist integration services. Among other forms of employment, 'self-help firms' or 'social enterprises' are emerging primarily for people with psychiatric disorders.

In 1993, in the former West Germany, 888,000 severely disabled people were integrated in the working environment, including 112,600 outside the quota scheme, 146,000 were registered unemployed and 120,000 were employed in sheltered workshops.

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GREECE

POLICY AND INSTITUTIONAL CONTEXT

Disability policy and legislation

State responsibility for assistance of disabled people was first defined in the Constitution of 1975. Articles 21 and 25 clearly recognise the social rights of some societal groups who face special problems or find themselves in a state of constant need. In 1979 two laws, on vocational rehabilitation and housing of disabled people (law 963) and on health care (law 1000), regulated the scope of state assistance and the roles of its institutions. In the 1980s emphasis shifted from a focus on a person's disability (the term 'disabled person' being regarded as pejorative) towards the person's special needs. Thus, law 1648 of 1986 concerning employment protection refers to 'people with special needs'..

Disability employment policy and legislation

Provisions on employment are laid down in article 22(1) of the Constitution which states: Work constitutes a right and shall enjoy the full protection of the State, which shall seek to create conditions of full employment for all citizens...

All working people, irrespective of sex or any other distinction, shall be entitled to equal pay for equal work.

A feature of the Greek legislative approach is the automatic incorporation into domestic law of international conventions which Greece has ratified (according to article 28(1) of the Constitution). Consequently, no domestic law previous or subsequent to the conventions may contain provisions at variance with them. The ratification by Greece of ILO Convention 159 of 1983 has been incorporated as law 1556 of 1985.

The report prepared by Greece as an evaluation panel member for the 1992 OECD study of employment policies for disabled people (OECD, 1992) states:

The policy pursued in the field of vocational training and employment is linked with two principles: equal opportunities and the promise that disabled persons can and must contribute to the country's social and economic development.

Legislation for the employment of certain disabled people appeared with law 751 of 1948 which provided for the employment of war veterans. Before 1979 the employment of disabled people in the public sector was prohibited. The first piece of legislation relating to vocational rehabilitation and training of disabled people (law 963 of 1979) established the guidance, placement and training role of the mainstream Manpower Employment Organisation (OAED). It reversed the exclusion of disabled people from employment in the public sector and introduced the first quota system in the public sector.

That law of 1979 and subsequent Minister of Labour decisions of 1982 allowed for OAED to make grants towards technical conversions required in firms recruiting disabled people and created an opening for the Ministry of Labour to pay part of the disabled worker's wages; both were discretionary and depended on approval by OAED. Grants also were made available under law 1262 of 1982 for new undertakings whose main work force is disabled. Ministerial decrees have extended subsidies for employment of disabled people and assumed part of the cost of adapting workstations.

A central plank of the 1979 legislation was vocational training, leading to 37 vocational training centres opening throughout Greece (Seyfried and Lambert, 1989). The 1982 act made substantial allocations towards the building of centres and workshops designed to speed up the rehabilitation of disabled workers (Vogel-Polsky, 1984).

A law of 1985 (law 1568) was devoted to health and safety at work, but the report from Greece for the OECD study of employment policies for people with disabilities (OECD, 1992) noted a largely insufficient infrastructure for the rehabilitation of people disabled through occupational accident or disease.

The quota arrangements were revised and extended to the private sector under law 1648 of 1986. The law refers to people with special needs aged between 15 and 65 who have a limited capacity for occupational activity deriving from any permanent impairment or deficiency of a physical or mental nature. The quota system applied to other groups as well as to those with special needs. The quota was revised by law 30965 of 1991. Since an amendment of 1994, the law applies only to those listed in the OAED register of unemployed disabled people and with an assessed disability of 40 per cent. In 1995, an administrative penalty was introduced where employers do not follow the law.

Laws of 1987 (law 1735) and 1989 (law 1836) also relate to employment and vocational training. The latter act provides for the creation of sheltered workshops, but no decrees have appeared to implement the act; OAED reports in 1995 that planning is underway. Legislation in 1995 was directed at increasing coherence and co-ordination in training and employment placement services

Achieving awareness of legislative provision and changing attitudes to employment of disabled people is a major challenge for OAED. Information and campaigns to sensitise society have been aimed at employers, disabled people and the general public.

To some extent, ignorance remains and disability is concealed. Research into employment of disabled people found that families, because of social considerations, did not want to make official the disabilities of their members (OAED 1993, cited in Orfanidis, 1995). This attitude affects willingness to register as an unemployed disabled person (Orfanidis, 1995).

Social security and employment

Invalidity benefits ensure that disabled people's incomes are equal to those of non-disabled earners. The various benefits from the Ministry of Health, accorded to different types of disability and category of disabled person, continue to be paid after placement in employment. Invalidity pensions are paid alongside wages, provided that those do not exceed 80 per cent of the minimum retirement pension. Certain disabled people, paraplegic and blind people, for example, may draw early retirement pension providing they have specified years of employment or social security contributions.

Changes to the financing and entitlement to benefits, introduced under law 1902 of 1990, distinguish between three degrees of invalidity for invalidity benefit: serious (80 per cent), ordinary (66.6 per cent) and partial (50 per cent) (MISSOC, 1992).

Policy-making and implementation

OAED (the National Manpower Employment Organisation) is the main institution for planning and applying government policy on employment. It is administered by a Board of Directors consisting of representatives of the Ministries of National Economy and of Labour, of employees' and employers' associations and of staff, and two specialists (MISEP, 1995).

OAED fields of activity include:

- matching labour supply and demand through employment offices
- paying unemployment benefits and family allowances and partly financing certain social security allowances
- undertaking vocational guidance through special services
- providing vocational training in its training centres
- supervising the apprentice system for young people
- financing the creation of new jobs through employer subsidies for groups who have difficulty being hired
- taking responsibility for vocational rehabilitation of disabled people through special measures in specially created offices.

(MISEP, 1995)

Co-ordination

Lack of co-ordination in general rehabilitation policy was identified as an obstacle to development as far back as 1984. Seyfried and Lambert (1989) cited a 1984 report by the ILO identifying six government ministries sharing responsibility and noted at least 36 private organisations active in the area of supporting disabled people.

Law 1836 of 1989 laid down that one organisation, OAED, should co-ordinate training and employment. A coherent strategy for information to independent providers is a current aim, as is co-operation between public and private agencies.

Involvement of social partners and disabled people's organisations

Law 1836 of 1989 on the promotion of employment and vocational training set up a National Council on Employment and Vocational Training (ESEKA) under the supervision of the Ministry of Labour. The council proposes to Government the direction of vocational training and employment at national level, co-ordinates the organisations which implement programmes and generally directs their activities in line with national development programmes (MISEP, 1995). The council was expected to include representatives of disabled people, in addition to representatives of the different ministries in the field and of workers and employers, but this does not appear to be the case.

The involvement of disabled people's organisations is more apparent on the ground than in the formulation or co-ordination of policy. Representatives of disabled people's organisations take part in the administration of all the public centres for disabled people. Such representatives are also involved in the work of the committees administering the quota system (EC, 1988; OECD, 1992). Parents' organisations have been active lobbyists on behalf of people with learning disabilities and growing providers of specialist services.

DEFINITIONS OF DISABILITY

Law 1648 of 1986 (as amended) defines a disabled person for the purposes of employment as someone aged 15 to 65 who has limited possibilities for occupational activity due to any chronic physical, mental or psychological illness or impairment, provided that he or she is listed in the register of the disabled unemployed, held by OAED, with a disability of more than 40 per cent.

A later order of the Ministry of Health and Social Affairs in 1990 defined people considered to be disabled as those who 'because of severe mobility impairment, mental illness, visual impairment, severe and chronic illness, suffer from a reduction of their mental, physical or psychological abilities in such a manner that they can only follow with difficulties or cannot at all follow a vocational training aiming at a productive activity and who, because of that fact cannot participate in the active life of society'.. That order also stated that it is not the purpose of the law to protect all persons with special needs whose capacities are reduced by a given level but only those who 'because of illness or an important invalidity do experience real disadvantage

compared to the average citizen for whom it is difficult, even impossible to find a job on the open labour market'.. A commission of second degree set up by article 10 of the law stipulates that the law does not apply to those persons with an invalidity of not more than 25 per cent (Drossos, 1995).

A recent move (under law 2430 of 1996) has been the establishment of an invalid person's card (temporary or permanent depending on the degree of impairment). The Ministers of Labour and of Social Welfare will jointly define the criteria for certification.

STATISTICS

According to MISEP (1995), the working age population (aged over 14) in 1993 was 8,491,620 and the total labour force was 4,118,379; the activity rate was 48.5 per cent. Unemployment peaked at 398,200, a rate of 9.7 per cent. The number registered unemployed with OAED was 175,885 in 1993 and 179,525 in 1994.

Grammenos (1991) gives some data on the disabled population. He cites a national survey, carried out in 1970 (and published in 1990) by the Ministry of Health, Insurance and Social Security, of people with a physical and mental handicap. Its estimated number of 135,000, 1.5 per cent of the total population, is assumed to be an underestimate for methodological reasons and because people preferred not to declare themselves out of a fear of 'stigma'.. Grammenos (1995) notes that it was the first survey in Greece to include people with learning disabilities; their number was estimated at 17,900. Grammenos (1995) calculated a total 246,200 disabled persons aged under 60 'receiving aid linked to a disability' (Table 3).

According to the Employment Community Initiative Summary Operational Programme for Greece (EC, 1995), some eight per cent of the overall population has a form of physical disability, or learning difficulty or mental health problem.

There are no available statistics on disabled people in employment. A survey carried out for OAED in 1993 found 4,265 unemployed disabled people in the whole of Greece; however, proposals put forward in 1995 to raise the quota suggest that the Minister considered that ten per cent of the workforce has some kind of disability (Orfanidis, 1995).

Grammenos (1995) gives previously unpublished data transmitted by the OAED on the number of disabled persons registered (or re-registered) on the OEAD unemployment register. Numbers are reproduced in Table Gr.1.

In 1992, there were 1,805 new registrations and 587 re-registrations; around 60 per cent of the total were men (Grammenos, 1995).

The 1992 Greek report to the OECD repeats the information provided for EC (1988) to the effect that in all 8,000 were registered with OAED, of whom 25 per cent were placed in employment and 15 per cent directed towards a training course. No later data have been provided. It is clear that registration is an inappropriate indicator of the number of unemployed disabled people. For example, in the greater Athens area, with an estimated workforce of one million, only 1,889 were registered disabled (Orfanidis, 1995).

Table Gr. 1 New registrations and re-registrationsa by unemployed disabled people

Year	Number of (re-) registrations
1986	1,908

1987	1,988
1988	2,678
1989	2,199
1990	1,908
1991	1,905
1992	2,392

a Includes new registrations (flows) during the year.

Source: Grammenos, 1995, Table 26

EMPLOYMENT SUPPORT SERVICES

Relevant bodies

Since 1979, employment support services have been provided by OAED. OAED set up a vocational rehabilitation department to promote, monitor and implement related measures. Placement services for disabled people were set up as part of mainstream provision but there are now six special offices for placing disabled people in the general labour market, each with a social worker for job-related support.

Up until 1994, OAED provided financial support for both public and private organisations offering rehabilitation and training. Now it supports only those specialised centres for vocational training funded and inspected by OAED itself. Since 1995, with all programmes for training and employment organised through the OAED, a coherent policy for providing information to independent and private organisations is being sought. Voluntary groups such as parents' associations (for example, PEGAP-NY) are growing providers of institution-based, pre-vocational orientation and training and sheltered work opportunities.

Through HELIOS II, there have been attempts to create strategies for equal opportunities and good practice in training and employment of disabled people. The co-ordinating role of OAED is re-emphasised under law 2307 of 1995, and teams from local authorities have to co-operate with OAED which takes responsibility for placement.

The OAED budget for employment programmes for disabled people rose from DRA 250,000,000 and DRA 300,000,000 in 1993 and 1994 respectively to DRA 800,000,000 in 1995 (MISEP, 1995).

The Ministry of Education provides disabled people with special education and vocational training at first degree (elementary) and second degree (high school) levels. Throughout Greece, 200 hundred first degree educational centres are operating in which less than 5,000 mentally disabled people are enrolled; and in late 1996, only two second degree vocational training centres were operating (PEGAP-NY, personal communication).

The Ministry of Social Health and Welfare supervises parents' associations and institutions of Private Law Legal Persons in the application of programmes mainly for people with learning disabilities in vocational training centres.

Eligibility and assessment

Prior to being placed by OAED, disabled people must be recognized as such; a special certificate issued by

the health authorities must confirm that they are capable of performing vocational activities before they can register with OAED as people seeking employment. The certificate describes in detail the illness or impairments. Because of problems with the earlier classification, now only those with a disability of more than 40 per cent can be registered as disabled with OAED.

Training

Training for disabled people is available through ordinary vocational training courses run by OAED. There are also private training institutions for disabled people.

Seyfried and Lambert (1989) found access to training very limited for people with learning difficulties and those with psychiatric problems. They noted a mismatch between the training activities of the institutions and the realities of the labour market, and between training and the employment preferences of disabled people. At the time of their fieldwork they noted the low qualification level of training personnel and the need to look outside Greece for adequately qualified trainers. However, closer co-operation between placement services and rehabilitation and training institutions has seen the development of new training courses related to the regional labour markets.

Future developments are to include training in specific occupations according to the needs of the market and seeking out new forms of training, such as distance-learning and on-the-job training. Psycho-social support for trainees and their families is a further area for development.

Guidance and placement

OAED guidance and placement activities are run from six occupational rehabilitation offices. These offices inform employers and disabled people about legislative measures, encourage the placement of disabled people and advise disabled people about vocational training. In addition, the local offices of OAED employ officials specifically concerned with programmes relating to disabled people.

Grammenos (1995) provides previously unpublished data transmitted by the OAED on the number of disabled persons placed in an open environment by the OAED, not including beneficiaries of the quota system. Grammenos (1995) notes that, according to the information available, very few placements are made under the employment obligation. The data are reproduced in Table Gr. 2.

Table Gr. 2 Placements in open employment by OAED, outside the quota

Year	Number of placements
1986	491
1987	589
1988	709
1989	584
1990	586
1991	403
1992	352

Source: Grammenos, 1995, Table 26

Seyfried and Lambert (1989) commented on OAED's placement services. They found that mainstream placement personnel required training to increase sensitivity to the problems of disabled people. However, they noted that significant progress appeared to have been made, with several companies employing more disabled people than average. Rehabilitation institutions had also successfully placed their trainees in open employment. Physically disabled people appeared to fare better but lack of appropriate living accommodation was an obstacle. Mentally disabled people were rarely placed by OAED. A private institution specialising in support and rehabilitation of mentally disabled people is reported to have used its own personnel to find suitable jobs in open employment for former trainees.

Orfanidis (1995) comments that the system whereby OAED acts as an official contact point for employers and as a bridge between them and disabled jobseekers constrains opportunities for direct exchanges between employers and disabled people. The register appears to be little used by employers. His study of employers' attitudes and practices found that most recruitment of disabled people occurred through personal recommendations and direct applications.

There is little provision for continued support once in employment. OAED's prime responsibility is for disabled people in need of employment. There is no follow-up information on the situation of disabled people once employed. A difficulty reported to Seyfried and Lambert (1989) was sustaining people in employment once the special financial support to employers expired.

OPEN EMPLOYMENT: LEGAL OBLIGATIONS AND RIGHTS

The only legal obligation on employers for the employment of disabled people is compulsory employment, consisting of both a quota obligation and reserved employment.

Compulsory employment

Law 1648 of 1986 revised the rules for compulsory employment of groups specified under the law and extended obligations to both public and private sector employers of over 50 staff. It is important to understand at the outset that disabled people constitute only one of seven special groups protected by the law. The law of 1986 is known, in full, as the law for the protection of fighters, victims of war, disabled people and other people with special needs. Fighters and victims of war take precedence over disabled people and others with special needs when it comes to filling the employment quota required. The levels of the quotas to be filled by each of these two main categories were altered in favour of people with special needs by ministerial decree in 1991 (decree 30965 of 14 May) but the order of precedence remains the same.

Article 1 outlines the seven groups of people protected by the law, as follows:

1. People who fought as members of the Greek Army and the Security Forces in the following wars: from October 1940–31 December 1950 (World War II and Civil War); in Korea (1951-1955); in Cyprus (Summer 1974); and people who fought as members of the Greek Resistance against the German invasion (1941-1944) - in so far as they became disabled.
2. People who as members of the Greek Army had spent at least five months in a combat unit (1940–1944) and, totally, had spent at least 24 months in military service at that period.
3. People who as members of the Greek Resistance has spent at least 12 months in action.
4. The children and spouses of people who fought in those wars.
5. Disabled people aged 15 to 65 with limited ability for vocational integration. This includes

people with any physical, mental or psychiatric disability, provided they are registered disabled with OAED.

6. The parents or the brothers and sisters of the destitute with serious moral or psychosomatic problems with a disability of 67 per cent or more.

7. Parents with more than five children still in full-time education.

However, there are certain exceptions (article 1 (5)):

people with pensions from the public sector or a social insurance organisation where the pension is higher than the lowest limit of pension awarded by IKA (the main social insurance organisation), apart from people who are blind or paraplegic;

the politically unacceptable (Nazi-collaborators, past dictators, those who attempted to overthrow the legal government of Cyprus and anyone who lost political rights).

The law treats these seven groups of beneficiaries as belonging to two broad categories: the first category consists of groups one to four; and the second category contains groups five to seven, that is, registered disabled people and other people with special needs.

Quotas apply to any organisation operating in Greece, whether in the public or the private sector, which employs over 50 staff, excluding short-term contract staff.

Under law 30965 of 1991, private sector companies and organisations of common welfare must allocate two per cent of jobs to beneficiaries under the act in category one (that is, groups one to four); and five per cent of jobs to people in category two (that is, registered disabled people and others with special needs). The two per cent quota must be filled first. The total percentage of jobs to be filled by people protected by the act was thus seven per cent. Law 2224 of 1994 stipulated that the same organisations now must have two per cent of employees with special needs and one per cent of people with severely disabled dependants (group 6).

Under the law of 1986 extra quota obligations pertain to the public sector and local authorities in relation to filling vacancies where new jobs occur: five per cent must be filled by people eligible under the law (article 3(1)). Law 1735 of 1987, governing recruitment in the public sector, lays down that 'five per cent of vacant posts in the public sector shall be reserved for disabled people'. Public sector employment provisions pertain only to people aged 21 to 45.

Under article 8 of law 1648 of 1986, disabled people must always be hired by a committee.

The obligation to fill the quota in full or in part may be waived at the discretion of the prefect, the administrative head of the province and a political appointee. Similar discretion may be exercised if, for financial reasons, a firm cannot afford to keep a person on; the provincial head will judge the criteria relevant to the case for dismissal (extent of disability, family status and so on) (article 2(5)).

Reserved occupations

In banks, the public sector and local authorities, a proportion of vacancies in specific ancillary occupations must be reserved for people protected under the act. The specified occupations are messengers, night watchmen, cleaners, receptionists and gardeners. In every one of these occupations, for every five vacancies one vacancy must be filled by a person eligible under the act (Law 1255 of 1982).

For every three lawyers in public occupations, one position must be held by a person protected by the act, although certain categories of lawyer are excluded.

The only category of disabled beneficiary singled out under the compulsory employment regulations of the

law of 1986 is blind people. In banks, the public sector and local government, 80 per cent of switchboard operator vacancies had to be filled by qualified blind people (article 2 (6a)). Law 1735 of 1987 reserved all vacant public sector telephonists posts for blind people and law 2224 of 1994 later specified 80 per cent of vacancies. Occupants of such posts earn 12 per cent extra and may retire on full pension after 20 years of work (European Blind Union, 1989).

Compliance

Drossos (1995) observes that the tightened definition introduced in 1990 intended to stem the steady increase of employment in the public sector through misuse of the stipulations of the law of 1986. The stipulation that the law does not apply to people with light disability was introduced for similar reasons.

Employment opportunities under the compulsory employment are limited by a number of factors. The threshold of eligibility as a registered disabled person recently has been increased to 40 per cent disability. Registration stands at a low level. Moreover, the Greek economy is characterised by high self-employment and small employers and increasing use of short-term contracts. Only about half the working population is wage-dependent and over 80 per cent of Greek enterprises have less than ten employees.

Amendment 137 of 1995 introduced an administrative penalty on employers who do not follow the requirements of the law but until recently there were no penalties or other types of enforcement of the compulsory employment regulations. It is not known how many employers seek exemption from the prefect. According to the EC report (EC, 1988) employers subject to the law are required to submit an annual report to the prefecture of their staff situation. We have no information on whether this requirement is met. The quota system is overseen by committees, including disabled people's organisations, at prefecture level; there is no information on how these work in practice.

Although there is no enforcement of the quota system, OAED may grant subsidies for one year of DRA 1,700 per day for each disabled worker taken on by private sector firms which meet the quota obligation.

Employment rights

As concerns protection against dismissal, disabled people are entitled to the same treatment as non-disabled people. However, dismissals within the quota system are governed by specific laws, whereby the prefect of the province may exercise discretion if a firm cannot afford to keep a person on.

Law 1735 of 1987 is concerned with recruitment in the public sector. It lays down that disability may not be regarded as an obstacle if a disabled applicant has the qualifications required for the vacant post. However, an exception is made as regards blind primary and secondary teachers, where their disability constitutes an obstacle to their appointment. So as to guarantee equal treatment, disabled people are not subject to age limits in relation to employment in the public sector. People who are blind, hard of hearing or suffering from Mediterranean anaemia (Thalassaemia) have access to universities without prior examination (EC, 1988).

OPEN EMPLOYMENT: FINANCIAL MEASURES

Support for employers

Financial support has been made available for employers under various laws and decrees since 1979. It has been of two kinds: short-term subsidies for newly recruited disabled workers; and grants towards a proportion of the costs of ergonomic or architectural alterations. In 1995, a lump-sum integration grant was introduced.

Subsidies

OAED has legal authority to pay employers grants for creating new jobs for categories of people having difficulties in the labour market. In the current two year programme the emphasis is on supporting firms recruiting people leaving school and vocational training institutes. There are also special programmes for women entering or re-entering the labour market and in regions where unemployment is particularly high. In 1992 and 1993, the numbers of beneficiaries of all these programmes were 22,649 and 20,543 respectively.

There is a separate programme of grants for employers recruiting disabled people (as defined by laws 1648 of 1986 and 2026 of 1992). The programme offers employers over a total employment period of 30 months a daily grant of DRA 5,000 for the first 12 months and DRA 3,000 for the second 12 months. The size of the grant is comparable to that for other priority categories but the period of payment is longer. There is also a subsidy for recruitment of part-time workers of DRA 3,000 per day for 24 months.

In addition, employers can receive support of up to DRA 250,000 if they provide a working environment tailored to the needs of disabled employees where the disabled person is unemployed on recruitment. In 1987 a job creation programme financed the redesign of workplaces for 200 disabled people (InforMISEP, 18, June 1987) when the maximum available was DRA 120,000.

Table Gr. 3 Number of beneficiaries of grants for employers recruiting disabled people

Year	Number
1992	352
1993	478
1994	444

Source: MISEP, 1995

The 1987 job creation programme financed new jobs for 1,600 disabled people. In 1988 the job creation programme provided for 450 new jobs for disabled people up to 25 years of age and 950 jobs for those over 25, for 12 months. The employer was required to keep the employee for at least a further six months (InforMISEP, 21, Spring 1988).

Integration grant

In 1995, a lump-sum grant was introduced. The grant of DRA 150,000 is intended to cover the costs of the adaptation period during which the employee learns his or her tasks.

Recognition of good employers

The Ministry can demonstrate publicly its approval of organisations which promote the employment of disabled people, by letter of approval, public acclaim or small money prizes (article 5 (4) of the law of 1986). In addition, OAED may grant subsidies to private sector firms which meet the quota obligation.

Effectiveness

A study of 51 firms in the Athens area (Orfanidis, 1995) found that most of those that were employing disabled people were not using subsidy schemes or grants for aids and alterations, although awareness stood at two-thirds and a half respectively.

Seyfried and Lambert (1989) considered it to be a weakness of the subsidy programmes that once the specified subsidy period had elapsed the employer was obliged to keep on the disabled person for a short period only.

Support to employees

There is legal scope for the Ministry of Labour to allow up to six extra working days' paid holiday to disabled workers, whether or not protected by the law of 1986. In 1987, holidays were extended by five more days. In practice, labour contracts do not provide for more holidays than usual (Drossos, 1995).

Self-employment

Approximately half the Greek workforce is self-employed. Law 1260 of 1982 on regional development allocated substantial financial aid for disabled people setting up in business on their own account. Programmes to encourage self-employment of disabled people run alongside general job creation programmes for individuals about to become self-employed for the first time.

The award ranges from DRA 1,200,000 to 1,900,000. Priority is given to:

- those more than 60 per cent disabled
- those with relevant training and experience
- where the enterprise is likely to develop economically
- areas of high unemployment
- women.

There is also provision for the same award to co-operatives of up to 14 members and to medium-sized enterprises of up to four employees.

There have also been programmes to support young disabled people setting up their own business in the manufacturing, trade or business sector with a grant of DRA 900,000 (MISEP, 1995).

SHELTERED EMPLOYMENT

An act on Employment and Vocational Training (law 1836 of 1989) provides for the creation of sheltered workshops but as yet there are no decrees to implement the act and allow for the legal recognition and subsidy of sheltered workshops. The labour market, health and social authorities have been working together to plan an institutional framework for sheltered workshops, known in Greece as productive special centres (PEKE). Funding must be provided from the national budget.

The aims appear to be to meet the employment needs of severely disabled people who do not receive priority under the placement system and to create employment opportunities for people who have finished training in vocational training centres but cannot be placed on open employment. In addition, there has been a new demand from people leaving closed institutions. OAED recognises the lack of appropriate work opportunities for people with learning and psychiatric disabilities, and sees the development of sheltered employment as a way forward.

Several writers report that despite the lack of an institutional framework there are a number of private sheltered and semi-sheltered workshops. Writing about the situation in the early 1980s, Vogel-Polsky (1984) reported that 'a number of disabled people work in what might be termed closed workshops run by voluntary associations or the Orthodox Church'. Samoy (1992) mentions occupational centres, mostly connected to vocational training centres, functioning as a form of workshop. Some workshops have been established as self-help initiatives set up by groups of parents. Information in 1996 indicates about 50 associations unofficially providing sheltered work opportunities for about 2,500 mentally disabled persons (PEGAP-NY communication).

Co-operatives

Seyfried and Lambert (1989) reported a planned agricultural co-operative for mentally and psychically disabled people, and a report from CEFEC (Newsletter 1/4, 1993) indicated a gradual growth of co-operatives aimed at training, vocational rehabilitation and integration of patients with chronic mental illness.

Future developments

OAED is looking towards more flexible occupational schemes in sheltered and semi-sheltered employment - such as productive workshops, co-operatives and social enterprises - for people for special needs who might choose such an occupation, or for those who cannot integrate in the open labour market.

SUMMARY

State responsibility for assistance of disabled people was defined in the Constitution of 1975, followed by laws on vocational rehabilitation, housing and health care. In the 1980s emphasis shifted away from disability towards special needs. Policy in the field of vocational training and employment is linked with the principle of equal opportunities and 'a promise that disabled people can and must contribute to the country's social and economic development'.

Legislative provision for the employment of disabled people developed between 1979 and 1986. A feature of the Greek legislative approach is the incorporation into domestic law of international conventions it has ratified; ILO Convention 159 was incorporated in 1985. Early legislation focused on vocational training, leading to the establishment of vocational training centres designed to speed up rehabilitation of disabled workers. Compulsory employment was introduced in 1979 and extended to the private sector in 1986. Other legislative measures paved the way for discretionary grants for technical conversions and wage subsidies.

Long-term problems have been policy coherence and service co-ordination. The mainstream Manpower Employment Organisation (OAED) has overseen, since 1979, the vocational guidance, training and placement of disabled people. OAED now has six offices specialising in guidance and placement of disabled people; elsewhere, they are served by general employment offices. Up until 1994 it provided financial support for private organisations offering rehabilitation and training but now it supports OAED's own vocational training centres and aims to co-ordinate information provision to independent providers. The co-ordinating role of OAED was legally reinforced in 1995.

Under the 1986 act, 'people with special needs' covers 'people between the ages of 15 and 65 who have a limited possibility for occupational activity deriving from any permanent impairment or deficiency of a physical, mental or psychological nature'. To benefit from OAED's placement services, a disabled person must be recognised as such, confirmed to be capable of performing vocational activities, and registered as seeking employment. Now only those with a disability of 40 per cent can be registered. Numbers registering are low.

Compulsory employment provisions include a quota system and reserved employment. Disabled people constitute only one of seven special groups protected by the law of 1986. People who fought in the Greek army and were disabled in certain wars, people who spent long periods in military action or in the Resistance (whether disabled or not), and children and spouses of those groups, together take precedence in meeting the first two per cent of the quota obligation. The next three per cent is to be filled by registered disabled people, certain people with severely disabled dependants and parents with more than five children in full time

education. The quota obligation applies to any organisation operating in Greece which employs over 50 staff; these organisations must fill a total seven per cent of jobs with people protected by the act. In 1995 an administrative penalty was introduced against employers not respecting the law.

Extra obligations relate to the filling of vacancies in the public sector. In banks, the public sector and local authorities, a proportion of vacancies in specified ancillary occupations must be reserved for people protected under the act. One in four lawyers in public occupations must be a person protected by the act. In addition, in banks and the public sector switchboard vacancies (now 80 per cent) must be filled by blind people.

The effectiveness of the compulsory employment legislation is not known, but is likely to be limited given that only about half the working population is self-employed and over 80 per cent of enterprises have under ten employees. There have until recently been no penalties for non-compliance and there is scope to apply to the prefect of the province for exemption. The quota system is overseen at prefectural level by committees including disabled people's organisations. Disabled people may be dismissed under the quota system in special circumstances, at the discretion of the prefect.

Financial support by OAED to employers consists of short-term subsidies and grants towards the costs of architectural alterations. There appears to be no financial support directed at disabled employees, but a law of 1982 allocated financial aid for disabled people setting up in self-employment.

An act of 1989 provides for the creation of sheltered workshops. Labour market, health and social care authorities are planning an institutional framework for the first workshops. The aims appear to be to meet the unemployment needs of severely disabled people who do not receive priority under the placement system and to create employment opportunities for people who have passed through vocational training centres. There is also a growing recognition of the needs of people leaving closed institutions. Some workshops already exist outside of a legal framework, many run by parents' organisations.

The working age population in 1993 was 8.5 million and the activity rate 48.5 per cent. There are no official statistics on disabled people in employment and figures on registration as unemployed with OAED are not a good indication of unemployment. Data on the disabled population is also limited.

Note

This up-date of the 1993 edition was based on the original Greek language submission to the HELIOS II up-date of developments since 1988, supplemented by a limited number of other sources. A commentary and additional material from OAED had not arrived at time of going to press.

Acknowledgement

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IRELAND

POLICY AND INSTITUTIONAL CONTEXT

Disability policy and legislation

In response to the International Year of Disabled Persons the Irish Government released a Green Paper in 1984 that focused on services for disabled people (Department of Health, 1984). This Green Paper, *Towards a Full Life*, sought to stimulate debate on areas and possible strategies concerning the integration of disabled persons in all areas of life. Later years saw changes in service delivery and an increased emphasis on the position of disabled people, although policies tended to reflect the interests of specific government departments and agencies, with resulting approaches characterised by incrementalism rather than substantial change (Whyte, 1994). According to Quinn (1995), 'Irish policy towards disabled people has traditionally been paternalistic - providing some support to disabled people rather than seeking to uphold and reinforce their human and civil rights'.. Developments since 1993 have brought radical change, however.

In 1993, the new coalition Government created a Ministry of Equality and Law Reform, one of whose aims was to advance the rights of disabled people. The Minister for Equality and Law Reform set up in December of that year a Commission on the Status of People with Disabilities. The Commission's report (the Flood Report) was released in November 1996. In 1996-97, a Council for the Status of People with Disabilities was established, and a number of proposals for the area of equal treatment legislation were brought forward.

Changes in the direction and underpinnings of disability policy within Ireland are encapsulated by the report of the Commission on the Status of People with Disabilities (1996). The Commission's terms of reference were, 'to advise the Government on practical measures necessary to ensure that people with disabilities can exercise their rights to participate, to the fullest extent of their potential, in economic, social and cultural life'.. The task was to make recommendations setting out necessary change in legislation, policies, practices and structures. The Commission examined the barriers and way forward in a wide range of areas, including employment and training, income support, health, support services and legislation. Its guiding principles were equality of status, rights, maximisation of potential, inclusion and participation, and self-determination. An important feature was 60 per cent membership of disabled people or their family and carers.

Lord Justice Flood, chair of the Commission, considered the report to be, 'an equality strategy which will, if implemented, set about removing the barriers which stand in the way of people with disabilities who want to live full and fulfilled lives'.. The report contains 402 separate recommendations covering the spheres of legislation, housing, employment and training, income and health. The report proposed wide-ranging and detailed reforms. Of primary importance is its recommendation to draw up a general principle of equality for the Constitution. This, in turn, would be accompanied by a Disabilities Act with the requirement that public and private bodies, employers, and educators make reasonable accommodation.

The assumptions underpinning the report and its framing of the status of disability are in many ways as significant as the strategic, concrete proposals aimed at remedying them. The report commented on how attitudes to disability have changed, that disability must be seen as a social rather a medical issue, and on how concepts of rights and equality, rather than notions of charity, are central. The Commission also drew attention to the growth of organisations of disabled people, the establishment of the Council of People with Disabilities, and setting-up of the Department of Equality and Law Reform.

A multi-sector Monitoring Committee was being set-up to monitor the implementation of recommendations, and an Inter-Departmental Task Force established to prepare the Government's plan of action in response to the Report. The findings of the Commission will become the cornerstone of future Government policies aimed at disabled people and their families.

Disability employment policy

Disability employment policy has evolved incrementally. Until very recently, the main thrust of policy in Ireland has been to promote open employment opportunities for people with disabilities in the private sector, using persuasion and financial incentives to employers (Whyte, 1994).

A quota system was established in the public sector in the late 1970s but is not firmly based in legislation (Quinn, 1995). Debates during the 1980s and 1990s focused on whether to extend the quota to the private sector. During the period from 1981 to the end of 1983, priority for work as porters, doormen, messengers and cleaners was to be given to disabled people, although there have been no attempts to repeat the measure since. In central Government during 1981 and 1982, special examinations were arranged for disabled people, leading to the recruitment of 200 clerical workers, typists, shorthand typists, draughtsmen and so on (Vogel-Polsky, 1984).

Traditionally, there has been no specific reference in legislation to a right of disabled people to equal

opportunities in training and employment. The Green Paper of 1984 (Department of Health, 1984) briefly discussed some of the benefits and drawbacks of legislative measures in promoting employment of disabled persons. It concluded that the rights of disabled people were best achieved by agreement rather than through compulsion. Legislative provision, however, is one of the most significant areas of current change in Ireland, with the introduction of Employment Equality and Equal Status Bills in 1996 and 1997.

There are a number of policy proposals around disability and employment on the agenda within Ireland, and attempts to ensure that future policy takes a more coherent and co-ordinated approach (Commission on the Status of People with Disabilities, 1996). A number of reviews and evaluations of current provision are underway, including a review of sheltered training and work, a study of the Employment Support Scheme by the National Rehabilitation Board (NRB), and a survey of employer experiences of recruitment and employment of disabled people by the NRB and the Irish Business and Employers Confederation (IBEC). Alongside these moves have been new service developments, particularly in supported employment and social firms.

A contributor to the debate around disability and employment policies is the National Economic and Social Forum (NESF). This Forum was established by Government in 1993 to contribute towards formation of a wide national consensus on economic and social policy. It represents Government and opposition and social partners, as well as interest groups including disabled people. The Forum report Equality Proofing Issues (1996) commented that 'the complex nature of disability must be given special attention' in equality policy-making and implementation, and in equality proofing processes. It suggested a number of initiatives, including one led by Government to educate the public regarding access and inclusion of disabled people. The Forum also recognised the need for legislative provision on the inclusion of disabled people in employment, in particular:

'employment practice, in terms of recruitment and promotion, should not discriminate against individuals or particular groups of individuals...; and positive action should be taken by employers to ensure that places of employment as well as production and work processes are accessible to people with disabilities'.

Employment opportunities for disabled people have been considered in all of the programmes negotiated by Government with the Social Partners; that is, the 1987 Programme for National Recovery; the 1991 Programme for Economic and Social Progress; the 1994 Programme for Competitiveness and Work; and *Partnership 2000*, launched in January 1997. The Programme for Competitiveness and Work (1994) recognised that employment measures for disabled people within Ireland are limited and proposed a number of measures, including continued monitoring of the three per cent quota scheme in the public sector, amendments to Employment Equality legislation and introduction of Equal Status legislation, and extra funding for a pilot programme for the employment of disabled people in viable business projects.

The current three year national partnership agreement, *Partnership 2000* for Inclusion, Employment and Competitiveness (1996), took account of the recommendations and framework of the Flood Report in reaching agreement on measures for people with disabilities:

- mainstreaming employment policy for people with disabilities and reconsideration of the allocation of functions between the Department of Enterprise and Employment and the Department of Health
- action to meet the three per cent employment target in the broader Public Service, as opposed to in the Civil Service
- for private sector employment, increasing numbers participating in the NRB Employment Support Scheme and augmenting grant aid towards workplace/equipment adaptation
 - an additional 500 sheltered employment places and a code of practice on employment within sheltered work provision

- 1,000 places reserved for people with disabilities on mainstream training courses
- fully accessible new public transport initiatives and a review of the mobility allowance.

Policy-making and implementation

Under the Health Act 1970, full responsibility for the care, medical rehabilitation, guidance, training and occupational rehabilitation of disabled people is assumed by the Department of Health. Section 68 of the 1970 Health Act gives Regional Health Boards the responsibility for providing disabled persons with vocational rehabilitation services, responsibility for which, in turn, is delegated to the National Rehabilitation Board (NRB), funded by the Minister of Health. Responsibility for monitoring the public service quota lies with the Department of the Taoiseach (Prime Minister), Economic and Social Policy Division.

The NRB, established in 1967, provides specialist services directly, gives information and advice on disability resources and on accessible environments, and prepares standards and guidelines on training and on the environment. Its remit includes:

- vocational guidance and the placement of disabled persons in training and employment
- setting standards for vocational training programmes and approving training centres
- co-ordinating training for people with disabilities which is part-funded by the European Social Fund (ESF).

The NRB also provides additional support and grants, including workplace and equipment adaptation and job interview interpreters, and organises Jobclubs for disabled people.

The NRB has established a National Advisory Committee on Training and Employment (NACTE) which consists of Government Departments and the Social Partners, along with organisations representing disabled people and training agencies. NACTE advises the Board of the NRB on issues relating to the training and education of disabled people.

The Commission on the Status of People with Disabilities recommended that the Department of Equality and Law Reform co-ordinate national disability policy. The Commission also suggested establishing an executive body, the National Disability Authority, reporting to the Department of Equality and Law Reform, to monitor the impact of public policy and services on disabled people, ensuring economic, social, cultural, political, and civil rights. The Commission also considered that the role of the NRB be reviewed in light of its own work, and that overall responsibility for vocational training and employment of disabled people be assigned to the Department of Enterprise and Employment.

Organisations of disabled people

A recent development is the establishment of the Council for People with Disabilities, to co-ordinate and represent the views of all disabled people in Ireland and allow them to be consulted on issues of major importance. There is a three-tier system of representation: disabled people (physical, sensory, mental health and learning disabilities); parents, partners and relatives; and organisations of disabled people as distinct from service providers. The Council aims to achieve a balanced representation, containing vulnerable and marginalised groups, those based in urban and rural settings, and a fair gender mix.

DEFINITIONS OF DISABILITY

In Ireland disabled people are seen as persons who are at a disadvantage as a result of an impairment or disability which limits or prevents the accomplishment of a role that is normal (depending on the age, sex and social and cultural factors) for the individual concerned (EC, 1988).

The Commission on the Status of People with Disabilities defines people with disabilities as, ‘children and adults who experience any restriction in their capacity to participate in economic, social or political life on account of a physical, sensory, or learning difficulty or on account of any mental health difficulty’.

According to the definition proposed in the 1996 Employment Equality Bill ‘disability’ is:

- (a) the total or partial loss of a person’s bodily or mental functions, including the loss of a part of a person’s body, or
 - (b) the presence in the body of organisms causing, or likely to cause, chronic disease or illness, or
 - (c) the malfunction, malformation or disfigurement of a part of a person’s body, or
 - (d) a condition or malfunction which results in a person learning differently from a person without the condition or malfunction, or
 - (e) a condition, illness or disease which affects a person’s thought processes, perception of reality, emotions or judgement or which results in disturbed behaviour,
- and shall be taken to include a disability which presently exists, or which previously existed but no longer exists, or which may exist in the future or which is imputed to a person.

STATISTICS

In 1995 there were 1,233,600 persons in employment throughout Ireland, and unemployment was 190,000 (MISEP, 1996). Grammenos (1995) gives data taken from the Irish population census of 1986 which showed a total of 81,200 adults with an ‘incapacity for work’ on account of chronic illness or disability. The annual labour force interview survey gives a lower figure of adults incapable of working on account of a chronic illness or disability of 63,500 in that year, and an estimated 69,000 in 1992 (Grammenos, 1995).

Disabled people in employment

Kerr (1995) comments on how difficult it is to identify precisely the level of unemployed and employed disabled people within Ireland. Estimates put the number at 150,000, while the percentage of disabled people unemployed is said to be between 70 and 80 per cent.

The lack of comprehensive statistics on the number of disabled people may lead to inadequate data for policy development and needs-based services, planning, delivery and evaluation of services (ESFPEU, 1995). Similarly, according to Whyte (1994) ‘Effective information on the number of disabled people who currently require open, supported or sheltered employment in Ireland on which to plan for and base provision is not available’.. The Commission on the Status of People with Disabilities notes the absence of official statistics and recommends a survey to fill this vacuum.

EMPLOYMENT SUPPORT SERVICES

Services have traditionally been specialist, provided through the NRB, but latterly disabled people are encouraged to use mainstream services organised by the Training and Employment Authority (FAS).

Mainstream assessment, training and placement

Disabled persons are encouraged to use mainstream training facilities, although there has been debate about

the extent to which mainstream programmes can cater for their needs (EC, 1988). Records of participation of disabled people in mainstream training and provision are non-existent (Whyte, 1994). It is argued that mainstream vocational training programmes should maximise access for disabled people and that new, innovative and flexible training is required, with a greater emphasis on job placement (ESFPEU, 1995). Whyte (1994) suggests that a shift towards more on-the-job training and encouraging integrated employment training in the form of various supported employment models is required.

In relation to training places, there are no minimum targets concerning the participation of disabled persons in the mainstream training centres organised under FAS (MISEP, 1992).

Despite a number of schemes and incentives to encourage the integration of disabled people within the workforce, reliable statistical indicators of participation by disabled persons are not always available. Mainstream FAS training and employment schemes which can be used by disabled people include the Community Enterprise Development Programme, Community Workshops, Community Youth Training Programme, Social Employment Scheme, Teamwork, and the Enterprise Programme. As Kerr (1995) notes, however, participation by disabled people on FAS programmes has been limited. A recent initiative has been NRB/FAS advertising to encourage disabled people to apply for the National Apprenticeship Scheme (NRB, 1995a).

According to the Department of Health, strategies such as work experience programmes and job trials are often utilised in open employment both to encourage employers to take on disabled people and also to help the individual settle into a new job. The financial provisions for these are discussed later in the text.

Specialist assessment, training and placement

Specialist assessment, guidance and training is the responsibility of the NRB. The NRB report for 1995 (NRB, 1995a) gives some data. It shows that 3,300 disabled people used NRB occupational guidance services.

In 1995, there were 760 disabled individuals in the exchequer-funded Training Opportunity Programmes (TOPs) supplying basic skills aimed at providing trainees with opportunities to access specialist training. European Social Fund (ESF) support funded around 2,000 training places for people with disabilities in specialised training centres. Of almost 2,000 people leaving training, some 320 progressed to higher level training and education.

In 1995, the NRB assisted 314 people to enter full-time employment through the Employment Support Scheme, 700 people completed training and found employment in open, sheltered and supported employment, while another 320 completed training. In addition, 420 persons found employment directly from NRB job placements, and 550 individuals registered with NRB participated in mainstream Training and Employment Authority (FAS) Community Employment Schemes. Improved access to the FAS Community Employment Scheme and other work programmes negotiated by the NRB was said to benefit people in receipt of Department of Social Welfare disability payments.

There is little evidence on outcomes of specialist training. A study of training funded by European Social Fund and provided by the NRB comments on how, after completion of training, individuals are more likely to be engaged in sheltered work or supported employment than open employment. In terms of work-related outcomes, there is general agreement that the rates of placement to integrated employment are low overall. However, the report does conclude that it is presently impossible to measure definitively the impact of ESF training for disabled people (ESFPEU, 1995).

There are some concerns about the funding of participation in some specialist training provision: 'People

with disabilities participating in training should be paid an appropriate training allowance and retain their secondary benefits. Matching funding for European Social Fund supported training should not be dependent on attracting persons who are availing of disability-related income' (ESFPEU, 1995, para 7.42).

There is a long tradition of involvement by voluntary and non-governmental bodies in providing training and rehabilitative services for disabled people. Most training centres and community workshops for disabled people are operated by voluntary and non-statutory bodies. All these bodies receive funding from the health boards. (See sheltered work, below.)

Supported employment

There has been a growth of supported employment initiatives in Ireland. The number in supported employment is said to be small, perhaps under 200. A study undertaken by the Union of Supported Employment is examining numbers and provision more closely, and will also seek to promote and disseminate examples of good practice.

OPEN EMPLOYMENT: LEGAL OBLIGATIONS AND RIGHTS

Quotas

A quota system in the public service was introduced in 1977, according to the EC Report (1988). Under its provisions, any person with difficulties in holding down a job by reason of severe handicap may find employment in the public sector. The set quota is three per cent and the beneficiary must be registered with the NRB.

On 1 October 1995, there was a total Government workforce of 27,375. In written Parliamentary answers, the results of a survey carried out by the Monitoring Committee on Employment of People with Disabilities, which operates from the Department of the Taoiseach, was reported. The Monitoring Committee is made up of public service unions and management. It established that the employment of disabled people in the public service as a whole at the end of 1995 was 1.49 per cent.. In the civil service the three per cent quota was met at the end of 1995 but there are variations across Government Departments. Kerr (1995) notes the level of 9.7 per cent in the Department of Taoiseach itself, but one per cent in Tourism and Trade. *Partnership 2000* (1996) outlines measures to be taken to ensure that the target is met in the broader public service, including allocation of responsibility to a senior executive in every health board, local authority and state-sponsored body, maintenance of proper records of employment of people with disabilities and the introduction of codes of practice similar to those in the civil service.

The quota applies only to the public sector. In its reference to the introduction of private sector employment quotas, the Green Paper (Department of Health, 1984) judged that 'the Government do not consider it desirable at this time to impose an obligation on private sector employers to recruit a fixed number of disabled workers'. The document did, however, make a commitment to review the situation over time and not rule out the possibility of future legislation. In 1993 the Programme for a Partnership Government gave serious consideration to legislation for quotas (Kerr, 1995). The extension of the quota is an issue on which the social partners disagree. A representative of the Irish Congress of Trades Unions, commenting on voluntary measures and initiatives, wrote that one of the problems which exists is 'the ambition behind the measures considered and the voluntary nature of the commitments. Some of the barriers will not be overcome by a voluntary approach' (Carey, 1996). She recommends the extension of the three per cent quota to the private sector, something strongly opposed by the employers' organisation, IBEC. The latter, in its submission to the Commission on the Status of People with Disabilities (IBEC, 1995), opposed the implementation of compulsory quotas or any artificial obligations imposed on employers to increase the

number of disabled people in employment.

The report of the Commission on the Status of People with Disabilities did not recommend immediate extension of the quota to the private sector. Instead, it recommended that the three per cent public sector quota should be attained within three years, while all organisations receiving public funding should attain eight per cent within four years. Further, in awarding any contracts, the State and its agencies should give positive consideration to suppliers of goods or services who comply with employment quotas or with the Positive to Disability programme (see below). Although there would be no quota for the private sector, this would be reviewed after three years.

Rights-based legislative proposals

An Employment Equality Bill was introduced in 1996, as a measure to extend the Employment Equality Act, 1977. The Bill aimed to cover discrimination in employment on nine grounds, including disability, and to repeal all existing legislation dealing with employment discrimination. The proposed legislation was to cover employees in both public and private sectors, as well as applicants for employment and training.

Under the Bill, a statutory office of the Director of Equality Investigations was to be established in the Labour Relations Commission, with options of mediation, or investigation by Director or court. If the Director found that there had been discrimination, he or she would be able to order:

in an equal pay case, equal pay and maximum arrears up to the equal pay for the preceding three years,
in other cases, equal treatment and compensation of up to a maximum of two years' pay (or £10,000 where the person is not an employee). The penalty proposed for dismissal was a fine and compensation.

The Bill would allow for an employer to provide lower remuneration for particular work, if this is because of restricted capacity on the part of the employee compared to a non-disabled individual. The employer must provide special treatment or facilities for a disabled person, unless doing so would give rise to undue hardship. Notions of reasonable accommodation and essential requirements were not in the Bill, which diverges from the proposals of the Commission on the Status of People with Disabilities. In early 1997, the Bill was before Parliament.

The Government expected to publish an Equal Status Bill in the 1996 session, to prohibit discrimination against many groups in education, the provision of goods, facilities and services.

The Commission on the Status of People with Disabilities criticised both the Employment Equality Bill and the Employment Status Bill. It believed that the former should include 'reasonable accommodation' and contain appropriate definitions of disability.

PERSUASION POLICIES

Alongside legislative measures, there have been voluntary initiatives aimed at changing attitudes and persuading employers to recognise the abilities of disabled workers. The social partners recognise an important role for voluntary initiatives within the overall policy approach.. *The Programme for Competitiveness and Work* (1994), for example, outlined how the Monitoring Committee on Employment should aim to promote and review the employment position of disabled people, particularly in the private sector, and *Partnership 2000* (1996) referred to the active support of employer bodies in promotional

campaigns and grant schemes.

Similarly, the NESF (1996) suggested a number of initiatives to improve numbers of disabled people in the labour force, including one led by Government to educate the public regarding access and inclusion of disabled people.

Codes of good practice

Arising from the EC Council recommendation, a working party, representative of government, the NRB, disabled people's organisations and both sides of industry, established a code on the employment of disabled people, containing recommendations aimed in particular at firms (EC, 1988). The code of good employment practice stated that newly disabled employees should be retained in employment in the same firm (EC, 1988).

The Irish Congress of Trades Unions has issued a Charter of Rights for Disabled People, including 18 basic rights, some of which pertain to employment (ICTU, 1990).

As part of its programme commitments, the Government, through the Department of Finance, has developed a *Code of Practice for the Employment of People with Disabilities in the Civil Service* (1994). The code aims to provide guidance for departments and officers in relation to employment, outlines a commitment to making sure that disabled people are not disadvantaged, and suggests that reasonable efforts are made to meet the special requirements to which disabilities give rise. To help achieve these aims:

- the Civil Service Commission will encourage applications from disabled people
- the Civil Service Commission will make all reasonable efforts to provide special equipment and facilities as are necessary
- interview boards will be briefed on disability awareness
- discussions will be held with individuals about changes to the workplace
- attention will be paid to distribution of work tasks and access to training.

As already noted, *Partnership 2000* (1996) sets out plans for the preparation and active promotion of similar codes in the broader public service.

Positive to Disability

The NRB initiative *Positive to Disability* was launched in 1996. To gain the right to use the *Positive to Disability* logo in advertising and other communications, organisations must satisfy NRB that they are fulfilling all the listed requirements. Hence, they must have an equal opportunities policy in place and also:

- acknowledge applications from disabled people
- ensure that questions about disability are asked in a positive equal opportunities context
- ensure that disabled applicants who meet the job requirements progress to the second stage of selection procedures
- facilitate meeting the needs of disabled applicants
 - ensure that equal opportunities apply in training and promotion
- make efforts to retain staff who become disabled
- undertake disability awareness activities
- review ongoing progress

Twelve companies were awarded the symbol by May 1996. The employers' pack produced by the NRB notes

that 'Equal Opportunities are good for business. They can reduce recruitment and training costs, raise morale and improve customer relations... by recruiting the best available people for their workplace' (NRB, 1996). *Partnership 2000* states that a promotional campaign on the Symbol will be undertaken with the active support of the employer bodies.

OPEN EMPLOYMENT: FINANCIAL MEASURES

There are specialist and mainstream subsidy schemes and a work adaptations grants scheme, where subsidies and grants are paid to employers. There are also grants paid directly to disabled employees. The role of social welfare benefits as incentives or disincentives to work has come under increasing scrutiny.

Employment Support Scheme

In July 1990, the Government introduced a new programme, the Employment Support Scheme, to increase employment opportunities for disabled people. It is designed to enable disabled people with 50 to 80 per cent assessed work productivity to work alongside non-disabled people. The employer offers the job and pays a wage that reflects normal rates of pay and the State (through the NRB) measures performance and pays the remainder of the salary via a grant to cover the shortfall. Individuals taking advantage of the scheme can also keep any secondary benefits they receive, including medical and travel passes, for a year.

The scheme was extended to disabled people receiving social welfare benefits, resulting in an increase in numbers utilising it. Between July and December 1995, 314 individuals took advantage of the scheme - up by 25 per cent from 1994. Nearly IRL 1 million was paid out to employers through the NRB. Employers of new employees benefiting from the scheme may also qualify for the FAS Jobstart and Workplace subsidy schemes.

Jobstart and Workplace

The Jobstart and Workplace schemes, operated by the mainstream national Training and Employment Authority (FAS), aim to support the creation of employment. They replace an employment subsidy scheme.

Jobstart offers employers a subsidy of IRL 80 for 52 weeks for the recruitment of people who have been unemployed for three years or longer. People with disabilities who are referred by the NRB are also eligible (as are travellers). The subsidy, which is available only for full-time jobs, is paid as a lump sum in three instalments.

Workplace is a five week trial work programme designed for people who have been unemployed for six months or more or who are registered with the NRB (or who are members of the travelling community). Participants retain their normal social welfare benefits and receive a flat-rate payment of IRL 15 per week towards travel and meal expenses. The latter is paid by the employer and reimbursed by FAS.

Workplace/equipment adaptation grants

This measure aims to assist an employer wishing to employ a disabled person whose workplace or premise would need adaption. Grants of up to IRL 5,000 have been available to help adapt a workplace or to provide specialised equipment needed by an employee who has a disability. Adaptations for which a grant may be given include ramps for wheelchair users, modified toilets, voice synthesizers for visually impaired computer

operators and machinery adaptations which, for example, can be used by foot instead of by hand.

Initially the number of grants paid out under the scheme was small; up to mid March 1993, a total of IRL 30,000 had been approved covering 16 jobs. In 1995 the scheme gave IRL 92,000 and assisted 75 disabled people to access the workplace more easily, up nearly 80 per cent on the previous year. Under *Partnership 2000* provision for grant aid will be increased.

The NRB can also provide employers with free advice on making adaptations to buildings and sourcing suppliers of specialised equipment.

Grants and aids to employees

The NRB provides a grant to cover the cost of a personal reader to give help to blind or visually impaired workers who are required to do extra reading as part of their job. The *Personal Reader Grant* is paid directly to the employee to go towards the cost of his or her personal reader. The NRB also provides a grant towards the cost of providing an interpreter for people with hearing and speech impairments attending job interviews, providing IRL 30 per interview.

The NRB has introduced a pilot *Fares to Work Scheme*, from September 1996 to November 1997. The aim is to facilitate people with disabilities to take up employment by giving financial support to those who would incur extra costs in travelling to work because of the nature of their disability and lack of suitable transport support services.

Regional Health Boards can also make grants of up to a maximum of IRL 1500 for the conversion of an existing motor vehicle or for the purchase of an adapted new motor vehicle for use by a disabled person. This is subject to a means test.

The Commission on the Status of People with Disabilities hoped for increased investment to provide enhanced employment opportunities for disabled people, including additional funding for NRB schemes. For example, it believed that the Employment Subsidy Scheme should be funded to achieve a minimum of 500 jobs a year for over three years, and similar numbers should make use of the Equipment Adaptation scheme.

Social welfare benefits

There appears to be a growing debate in Ireland about the role of the social security system in enabling disabled people to take up work, and the various barriers and disincentives that exist. A number of sources comment on disincentives to undertaking training and seeking employment. A strong message from the Commission on the Status of People with Disabilities concerned the inflexibility in the income support system for disabled people which discouraged participation in education, training or work. It recommended that incentives to undertake employment should be openly available to persons in receipt of disability pension, 'taking particular account of the extent to which a person is allowed work without losing entitlement and the extent to which the pension is reduced as the basis of such income' (Commission on the Status of People with Disabilities, 1996).

Murray (1994) comments on how the extra costs which disabled people face in daily living and work may act as a disincentive for unemployed disabled persons. This is particularly because allowances which disabled people were eligible to receive when unemployed can no longer be claimed once they pass a certain income threshold. For Murray (1994) and Whyte (1994), a series of key issues arise around employment and benefits,

including:

- disabled people needing to earn over IRL 150 in order to spring the benefits trap
- means-testing as a basis for allocating income
- the greater flexibility required for schemes and structures to create incentives for disabled people to seek employment
- most available jobs being low paid.

A disabled person placed in rehabilitative employment can earn up to IRL 31.20 per week and still retain entitlement to the disability allowance (Whyte, 1994). From October 1996, there has been a centralising of the benefits system; responsibility for the allowance (renamed Disability Allowance in 1995) has moved from the Health Boards to the Department of Social Welfare. This change has important symbolic significance in shifting income security for disabled people from a health to a social welfare concern.

The incentive to transfer from a social welfare or health allowance to a special training centre, course or workshop is low. The disabled claimant has to give up an allowance such as Disability Allowance, which is transferred to the training institution which then hands back the benefit to the claimant trainee as a training allowance (Conroy, 1994). Kerr (1995) shares this concern about the treatment of disability allowances. Moreover, when training is complete the individual may be unable to find work but face difficulties in regaining previous levels of allowances, given up in order to take up training or employment (Whyte, 1994). Short-term and part-time work is discouraged by an eligibility system which permits combinations of work and welfare up to an income equal only to low wage jobs, equivalent to eight to ten hours of work (Conroy, 1994).

The 'fit-or-sick' distinction, and the perception that disability-related benefits are payable on the basis that the recipient is unavailable for and not actively seeking work due to disability, may also discourage employment (ESFPEU, 1995). That benefits also represent a safe income source suggests structural barriers and that employment may not be a priority for all trainees in receipt of benefits. The ESFPEU (1995) report recommends that the possibility of combining disability-related benefits with paid employment be explored further.

SHELTERED EMPLOYMENT

In Ireland there is a complicated situation in regard to provision of training and sheltered work. Some organisations both provide sheltered work and aim to offer training to enable the transition to open employment. The dividing line between these objectives is often unclear, as, for example, with long-term training centres. Moreover, some training is in living skills and is not directly employment related.

Training and sheltered work is provided mostly by voluntary organisations and funded by the Health Boards. Many workshops are run privately by charities and, especially, by the church. It should be noted that provision in Ireland is not strictly 'employment' as, except in one workshop, disabled people do not have contracts of employment. There is no uniform admission procedure and the workshops are free to set up their own procedures.

Aims and provision

Sheltered work units often operate alongside vocational training provision within community units. A voluntary organisation, the REHAB Group (previously the Rehabilitation Institute), is the principle organisation in Ireland providing vocational rehabilitation services for people with all types of disabilities in

training centres and community workshops throughout the country. Gandon Enterprises (part of the REHAB group) has seven production workshops throughout Ireland.

Other voluntary organisations provide sheltered work and long-term training. Although these centres aim to integrate disabled people into the workforce, as Samoy (1992) notes, many - especially those with mental handicaps - will remain 'in training' for a long period.

Information on disabled people attending training and sheltered work programmes, and their activities, comes from a data gathered in 1995 by the NRB from rehabilitation centres throughout Ireland (NRB, 1995b). The data excludes people on ESF-funded programmes.

Table I.1 shows that, overall, 9,849 people with disabilities were attending non-ESF funded programmes in early 1995. Sheltered work was the most common activity reported by rehabilitation centres responding to the NRB, involving 44 per cent of disabled people. Over a fifth were involved in long-term training. Some centres did not distinguish between long-term training

Table I.1 Types of activity and disability (except ESF-funded), 1995

	Long term training%	Sheltered work%	L.T. training and sheltered work%	Other employment-related activity%	TOPs%	Other training activities%	Total%
Learning Disability	75	66	86	79	60	65	69
Physical Disability	6	8	3	6	11	2	7
Mental Health Disability	19	26	11	15	29	33	24
Total %	100	100	100	100	100	100	100
Number	2192	4378	599	646	739	1295	9849

Source: NRB Development and Standards, October 1995.

and sheltered work and six per cent of disabled people were described as involved in both types. Eight per cent were involved in TOPs (Training Opportunities Programmes).

Over two-thirds of participants had a learning disability, almost a quarter had a mental health problem and under one in ten had a physical or sensory impairment in 1995.

A strict comparison cannot be drawn with estimates compiled by NRB in 1989, because the data were compiled differently. A tentative finding is an increase of approximately 27 per cent in the number of people in the 'sheltered work' category between 1989 and 1995 (NRB, 1995b).

The Commission on Status of People with Disabilities commented on the shortage of sheltered employment places and recommended that an additional 500 places a year are provided (as did *Partnership 2000*).

Labour conditions

The disability group for the blind, uniquely, runs a sheltered employment workshop for training and employment where employees have contracts. Elsewhere 'workers' have no contractual agreements and receive no salary. They receive a disability benefit and small supplementary payments. There may be an additional bonus, depending on the financial strength of the workshop. Typically, trainees receive IRL 10 to IRL 30 per week in addition to their benefits.

There is an ongoing debate about the role and development of sheltered workshops (Conroy, 1994). The Irish Congress of Trades Unions has recently expressed concern about the low levels of pay and poor working conditions in some of the workshops.. In recognition of the urgency of addressing issues such as the number, type and range of places needed, the legal status of workplaces and workers, and funding, a NACTE working party on sheltered work and employment was established and was set to report in mid 1997.

Evaluative work on sheltered provision is not readily available. Indeed, it is difficult to ascertain the 'performance' of sheltered workshops (Giles, 1996).

Labour law excludes many disabled people, who can not be considered employees in the legal sense. Issues of insurance and the applicability of health and safety legislation to workshops also need to be dealt with. Giles (1996) further outlines trends towards control of efficiency in sheltered work.

The Commission on Status of People with Disabilities recommended that the status of workshops be clarified and standards introduced for workshops' establishment and operation.

NEW FORMS OF EMPLOYMENT

The Government pilot Programme for Employment of People with Disabilities is designed to support viable businesses where at least 50 per cent of the employees are disabled people. Seven industries employ 150 disabled people. Between 1994 and 1996, a standard subsidy was paid for each employee, related to his or her productive capacity. The Commission on the Status of People with Disabilities drew attention to the Pilot Programme as a particular funding development to be encouraged.

The Commission on the Status of Persons with Disabilities considered that, as far as new forms of employment are concerned, the Department of Enterprise and Employment, in conjunction with the FAS, should establish a pilot programme of worker co-operatives. The aim would be to secure 100 jobs a year over the next three years for disabled people.

SUMMARY

Employment policy for disabled people has witnessed significant changes in recent years. In 1993 a new Ministry of Equality and Law Reform was created, one of whose aims was to advance the rights of disabled people. In November 1996, the Report of the Commission on the Status of People with Disabilities was released (the Flood Report). In 1996-97, a Council for the Status of People with Disabilities was established, and a number of proposals for the area of equal treatment legislation were brought forward.

The Commission on the Status of People with Disabilities examined the barriers and way forward in a wide range of areas including employment and training, income support, health, support services and legislation. Its guiding principles were equality of status, rights, maximisation of potential, inclusion and participation, and self-determination. The Commission had a 60 per cent membership of disabled people or their family and carers. The report stressed that disability must be seen as a social rather than a medical issue, and made a number of recommendations regarding employment opportunities.

A number of Government reviews and evaluations of current provision are underway, including a review of

sheltered training and work. Alongside these moves have been new service developments, including the growth of supported employment and a pilot programme to support businesses where at least 50 per cent of employees are disabled.

The Commission on the Status of People with Disabilities defines people with disabilities as, 'children and adults who experience any restriction in their capacity to participate in economic, social or political life on account of a physical, sensory, or learning difficulty or on account of any mental health difficulty'. Measures to promote employment opportunities for disabled people have been included in all of the three-year programmes negotiated by Government with the Social Partners. The Department of Health is responsible for guidance, training and occupational rehabilitation of disabled people. This is, in turn, delegated to the National Rehabilitation Board (NRB). Both mainstream and specialist training facilities are available for disabled people. The actual delivery of specialist training rests with voluntary and non-statutory bodies.

A three per cent public sector quota exists, and debates have focused on whether to extend it to the private sector. The quota is under-fulfilled by the majority of Government Departments and semi-state bodies.

An Employment Equality Bill was introduced in 1996, covering discrimination in employment on nine different grounds including disability. The proposed legislation covers employees in both public and private sectors, as well as applicants for employment and training. The Government expects to introduce an Equal Status Bill to prohibit discrimination against many groups in education, the provision of goods, facilities and services.

Alongside legislative measures, there have been voluntary initiatives aimed at changing attitudes and persuading employers to recognise the abilities of disabled workers. The Department of Finance has developed a Code of Practice for the Employment of People with Disabilities in the Civil Service (1994). The NRB initiative Positive to Disability was launched in 1996.

Financial measures to encourage integration are available for employers in the form of the Employment Support Scheme which offers a wage subsidy organised by the NRB. It enables disabled people with 50 or 80 per cent assessed work productivity to work alongside non-disabled people. Subsidy Schemes organised by the Training and Employment Authority (FAS) offer financial incentives for employers to recruit long-term unemployed and disabled people. Work Equipment Adaption Grants operated by the NRB are available to employers. Support available for employees includes grants to support the cost of a personal reader or interpreter, and a fares to work scheme.

Sheltered work often operates alongside training, provided by voluntary and non-statutory organisations. There is an ongoing debate about the role and development of sheltered workshops, including the number, type and range of places needed, the legal status of workplaces and workers, and funding.

In 1995 there were 1,233,600 persons in employment throughout Ireland, and unemployment was 190,000 (MISEP, 1996). Estimates put the number of disabled people at 150,000, while the percentage of disabled people unemployed is said to be between 70 and 80 per cent. The Commission on the Status of People with Disabilities notes the absence of official statistics and recommends a survey to fill this vacuum.

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ITALY

POLICY AND INSTITUTIONAL CONTEXT

Disability policy and legislation

Until 1992 there was no comprehensive act dealing with disability and disabled people, although the lack had been the subject of debate and several outline bills were prepared in advance of the new act (law 104 of 5 February 1992) without consensus being reached. The law introduced a completely new definition of a disabled person (see below).

This 'frame law' for the assistance, social integration and rights of disabled people is a statement of policies and plans. Article 1 guarantees:

- respect and human dignity, freedom and autonomy, and promotion of full integration into family, school, work and society
- removal of architectural obstacles so that disabled people may have as much autonomy and participation in community life as possible
- physical and social rehabilitation and facilities, alongside legal and economic protection

- intervention in order to overcome marginalisation and social problems.

The law covers prevention and diagnosis, treatment and rehabilitation, domestic and personal assistance, the right to education and educational integration, as well as vocational and social integration. In relation to social integration the law covers a broad range of measures including:

personal care services

direct intervention to overcome architectural obstacles

accessible education and technical equipment

adaptation of educational and sports equipment and facilities

access to public transport, special transport and assistance with private transport

day-time social, recreational and educational centres.

In all, the main thrust of the act is to remove obstacles, improve access and generally make it possible for disabled people to enjoy mainstream services and facilities. Its provisions in relation to training and employment are considered below. Under the law the responsible minister is required to submit an annual report to Parliament describing policy implementation and development.

Before 1992, an act of 1971 (law 118 of 30 March) was the basic law concerned with assistance, treatment, education, social rehabilitation and vocational training of all categories of physically disabled and mentally handicapped people, but excluding victims of war, industrial accidents or occupational diseases, as well as deaf and dumb and blind people, all of whom were covered by other laws. That act also contained measures concerning public transport, housing and architectural obstacles.

An act of 1978 applied exclusively to mentally disabled people (law 180 of 13 May). Known as the psychiatric reform law, it opened the door for many people living in psychiatric hospitals, thus influencing the development of community provision.

Employment policy

The Italian labour market is characterised by employment and activity rates lower than the European average, one of the highest percentages of long-term unemployed in Europe, a prevalence of young people among the unemployed, and disproportionate distribution of employment opportunities across the country.

Traditionally, a high degree of protection has been afforded to the (male dominated) employed, due both to the trades unions and to laws regulating the labour market, notably the Workers' Statute (Borzaga, 1996). From the early 1980s, measures aimed to reduce the degree of protection guaranteed to employees, to ease relocation and so reduce public spending on the Wage Compensation Fund which protects wages in the event of a company undergoing a crisis or restructuring.

Policies to reduce unemployment have concentrated on young people. Heavily subsidised training and work contracts, restricted to young people aged between 16 and 29, were used massively by firms and, according to calculations by Borzaga (1996), in the period 1984 to 1990 accounted for more than 80 per cent of gross flows into work (though with almost no net effect on employment).

Short-term training and work contracts, combined with measures to enable early retirement, have encouraged selective employment practices and labour turn-over. Borzaga (1996) notes that decreased job security has not been redressed by on-the-job training and more efficient job placement services. Accordingly, 'a decisive influence on the search for employment and the possibility of finding it, as well as on its quality, is the family and social background of the person concerned' (Borzaga, 1996).

Evolution of disability employment policy and legislation

Article 4 of the Italian Constitution of 1947 recognises the right of all citizens to work and to measures for exercising that right. It explicitly recognises the rights of disabled workers and stipulates the duty of the state to overcome social and economic obstacles limiting freedom and equality and inhibiting individual development and participation in the country's politics, economy and society.

Since the end of World War II, policies to support work integration of disabled and other disadvantaged people have been promoted both by national government and by local administrations at regional, provincial and communal levels. National policies have two main strategic components: compulsory employment of severely disadvantaged people; and recruitment incentives for other relatively disadvantaged groups (Borzaga, 1996). Thus, for example, employers with more than ten employees must reserve 12 per cent of jobs for certain workers on placement lists for more than two years, registered on mobility lists and belonging to other disadvantaged categories defined by the Regional Employment Commission (MISEP, 1995).

National measures for the employment of disabled people were introduced in 1947, with a law requiring the compulsory employment by private undertakings of workers disabled as a result of industrial accident or disease (legislative decree 1222 of 3 October 1947), followed in 1950 by a law in respect of the compulsory employment of ex-servicemen. Compulsory employment was to be achieved by means of a quota - applying to firms with over 50 workers - a register of eligible disabled people kept at provincial level, an obligation on employers to provide details of their compliance, and a liability to fines for contravention. These measures appear to have set the pattern for later legislation relating to the employment of specific groups of disabled people, including law 1539 of 5 October 1962 making provision for civilian injured and disabled people.

An act of 1968 (law 482 of 2 April) consolidated and amended the various regulations governing the compulsory employment of various categories of disabled people. It fixed the proportions in which jobs were to be reserved for each category (for example, civilian war-disabled, disabled civilians, deaf and dumb people) by private firms and public authorities (for further details, see quota schemes, below). This act set the standards for working conditions, dismissals and so on, and instituted provincial compulsory employment boards (Council of Europe, 1990).

The act of 1971 cited above contained provisions for occupational training, retraining, and sheltered work. Law 845 of December 1978 gives the regions powers to enact legislation for vocational training of disabled people and states that regions shall provide initial training opportunities for people with physical and sensory disabilities who cannot attend regular courses because of their disabilities (Council of Europe, 1990).

Commentators have identified a new model of 'encouragement' in more recent reforms, signifying a modification of the old practice of compulsory employment (Balandi, 1995). Balandi sees the change beginning with the law of 1985 concerning employment of blind people, and continuing with laws 381 of 1991 and 104 of 1992.

Law 113 of 29 May 1985 set out new principles to guide the training and employment of blind people, including adequate professional training and a normative approach to recruitment on the part of the employer.

The comprehensive law of 1992 contains some specific measures to promote 'total integration into the world of work'. As well as access to buildings and transport already referred to, the act:

- extends the quota system to include people with psychological impairments
- allows disabled people sitting public competitions and qualifying examinations the necessary help and extra time they need
- gives public sector disabled workers, hired through competition, the choice of a working site close to where they live.

Article 17 of the act of 1992 was innovative in underlining the right to professional training, in accordance with article 38(3) of the Constitution (Balandi, 1995). The act specifies the provision of vocational training by the regions. It also sets aside funds for new vocational initiatives such as apprenticeship, training contracts, and pre-work courses (Article 17(5)).

In 1991, social co-operatives were given specific legal recognition by law 381 of 1991. The first social co-operatives, in the late 1970s, were private initiatives to create paid jobs for disabled people who would otherwise be difficult to employ via the quota system; they then spread as part of the development of non-profit sector welfare services (Borzaga, 1996).

In addition to national legislation, the regional governments have passed their own laws, in the main in the 1980s. These laws introduced incentives to firms to meet the quota, financed forms of sheltered employment and work integration measures, and promoted vocational training.

There have been numerous unsuccessful attempts in parliament to reform the law and the quota obligation in particular. Decentralised experiments were intended to help shape reform (Borzaga, 1996). Legal reform is still being pursued, with four competing bills before parliament at the end of 1996. However, greater use is now being made of subsidies (Borzaga, 1996).

Policy-making and implementation

In Italy, most of the functions normally carried out at national level in other countries have been decentralised to 20 regional administrations. Landmark legislation of 1977 delegated and transferred to the regional administrations the power to legislate on public welfare, health and vocational training (DPR 616 of 1977).

At national level, the Ministry of Labour and Social Insurance has overall responsibility for drawing up, applying and monitoring labour legislation. At regional level, the regional labour and employment offices (URLMO) and the provincial labour and employment offices (UPLMO) have particular roles. The placement of disabled people is handled by the UPLMO, according to criteria established by the Provincial Commissions for Compulsory Placement. Compulsory employment of blind people is managed directly by the Ministry of Labour at national level.

Labour Ministry representatives, employers, trade unions, service providers and disabled people's associations meet periodically to develop policies on economic integration of disabled people (HELIOS, 1996).

The National Health Service operates at four levels; central government, region, territorial districts and local health units. Each health unit covers a population of 50,000 to 200,000 (Council of Europe, 1990). The local health units have a role in the support of integrated co-operatives.

Responsibility for providing financial assistance for disabled civilian people, civilian blind people and deaf and dumb people remains with the state and has not been transferred to the regions.

The consequence of the regional autonomy to promulgate laws for disabled people and to organise social assistance has been lack of a national point of reference for direction and co-ordination. This is particularly relevant to objectives, organisational structures, standards and forward planning. There is considerable variation across the regions in the formulation and application of policies for disabled people, and in the allocation of resources, to the marked disadvantage of the southern regions. An aim of the frame law of 1992 in the medium term is to overcome inequalities in quality of provision across the regions.

As regions have no jurisdiction on employment issues, their measures to promote vocational integration of disabled people are conceived as social and welfare, rather than as labour, policies (Borgaza, 1996).

DEFINITIONS OF DISABILITY

There was no definition of a disabled person in law until that of article 4 of the new act of February 1992. A disabled person is someone who has a physical, mental or sensory impairment, stable or progressive, resulting in difficulties in vocational training, in social life or in professional integration such as to be at a disadvantage and to lead towards social marginalisation. Previously, law 482 of 2 April 1968 had described the special features of each type of disability by which a disabled person could be identified for the purpose of benefits.

For the purposes of employment 'disabled civilians' are defined (decree 59 of 23 November 1988) as people whose occupational capacity is diminished by not less than one-third, but this reduction must be more than 45 per cent to be eligible for registration for compulsory employment. Although article 7 of that decree excluded people whose capacity was diminished mentally, this was later declared unconstitutional by the court (decision of the Council of the Constitution 50/1990) and such people are now included as disabled civilians. Article 19 of law 104 of 1992 now specifies that the quota system must be applied to those with psychological impairments who can be employed in suitable duties.

STATISTICS

In 1994, the working age population (15 to 70 years) was 51.2 million, the labour force numbered 22.7 million, the activity rate was 47.37 per cent, and the unemployment rate was 11.3 per cent (MISEP, 1995).

Disabled population

There seem to be no reliable data on disabled people in the population. Grammenos (1992) cites a survey by the National Statistical Institute (ISTAT) of the health conditions of the population, carried out between November 1986 and April 1987. The results underestimate the disabled population because the survey did not include all impairments in the ICIDH. Grammenos comments that it concentrates solely on serious impairments and excludes people who are chronically sick. It does not give a good indication of the disabled population in Italy.

Disabled people in employment

Figures provided by the Ministry of Labour and Social Insurance show that 236,000 disabled workers were employed under the quota scheme in June 1994. Of this number, 157,000 were classified as disabled civilians, and 27,800 as disabled at work. Table It.1 gives annual totals for all employed under the quota scheme and for disabled workers employed under the quota scheme (that is, excluding other protected groups).

Unemployed disabled people

The ISTAT survey generated an unrealistic figure of 23,000 permanently disabled people out of work in 1986 (Grammenos, 1992). The registration system gives a quite different picture. (A full explanation of the

statistics for registered unemployed disabled people is given in the section below on compulsory employment.) Figures from Grammenos (1995) for the years 1981 to 1992, given in Table It.2, refer to disabled people registered on the list established by the law of 1969 who are available on the employment market.

The figures given by MISEP (1992 and 1995) and the Ministry of Labour differ from those given by Grammenos (1995). MISEP (1992) gives a figure for registered disabled people unemployed in 1991 of 317,407, reflecting, it is said, a change in the eligibility threshold for registration. According to MISEP (1995), in the period January to June 1993, 312,083 disabled people and other protected groups were registered and unemployed (data now being reported in June of each year).

Table It.1 Workers employed under the quota scheme, by year

Year	Total	Total disabled workers (a)
1980	329,508	-
1981	403,442	300,085
1982	400,079	295,812
1983	394,476	290,522
1984	370,610	275,831
1985	310,383	273,472
1986	378,932	281,962
1987	389,011	289,368
1988	-	306,548
1989	-	296,751
1990	-	239,751
1991	-	233,090
1992	-	234,510

(a) excluding widows, orphans and refugees

Sources: *Lheureux, 1991; Grammenos, 1995, table 26*

In June 1994, around 300,000 registered disabled people and other protected categories were unemployed, of whom around 40,000 fell into the non-disabled categories (Ministry of Labour and Social Security, communication). Of the 260,000 unemployed and registered disabled people, 235,000 were disabled civilians and only 8,300 disabled at work. In comparison with the employment figures, disabled civilians are disproportionately represented in the unemployment figures, while the non-disabled widows and orphans are rather better represented among the employed. The rate of unemployment amongst registered disabled people rose from 41 per cent in 1980 to above 50 per cent at the end of the 1980s (Borzaga, 1995).

Overall, the total number of employed and unemployed registered disabled people has declined from 748,400 in 1990 to 600,000 in 1994. The fall is explained in part by the increase in the degree of disability required for registration as disabled civilian.

Table It.2 People registered disabled unemployed

Year	NumberTotal disabled workers (a)-
1981	193,381
1982	205,967
1983	245,544
1984	278,481
1985	294,387
1986	325,281
1987	352,142
1988	384,699
1989	376,874
1990	377,994
1991	374,605
1992	375,424

Source: Grammenos, 1995, table 28

EMPLOYMENT SUPPORT SERVICES

Vocational training

The law directing vocational and occupational training is law 845 of December 1978. Vocational training for disabled people is covered in articles 3, 4 and 8. Regions are empowered to enact legislation to regulate the vocational qualification of disabled people and to take steps to guarantee their rights to vocational training. Law 104 of 5 February 1992 obliges regions to devote a given part of their funds to vocational training and to innovative types of work such as apprenticeships and vocational training contracts. Voluntary organisations also have a responsibility to help disabled people, according to the 1992 law. They must enter into agreements with the public authorities and they may provide services in fields which include job-coaching, job-seeking and vocational training (Treu and Loy, 1995).

Under the 1978 law, regions are to provide initial training opportunities for people with physical and sensory disabilities who cannot attend regular courses. Law 104 of 1992 requires the regions to act to adapt the annual plans for special courses for disabled people not capable of attending ordinary courses. (Students attending special courses are to be given an attendance certificate for use in registering in the quota system.)

According to decree law 29/93, the public authorities are to present to the regional employment committees proposals or applications for recruitment programmes for disabled people, offering periods prior to commencing work with one of the public authorities. This training must last at least six months and may be of up to two years' duration (MISEP, 1995)

Regions ensure the integration of disabled people in vocational training centres, private and public, and guarantee the achievement of qualifications by means of specific activities inside the vocational training centre. Vocational training takes into account different skills and needs of disabled people who are put in classes or in specialised or pre-work courses (article 17(1)(2) of the law of 1992).

Vocational training centres (Centro di Formazione Professionale) offer two to three year courses averaging some 3,000 hours, 400 of which are spent in a real working situation. Although placement is not formally the duty of these centres, the gap in provision for placement has meant that centres do indeed take on that role, according to a conference paper in 1990 by Fabio Marchetti of the Ente Nazionale ACLI Istruzione Professionale (ENIAP). Placement is promoted by:

On the job training for a trial period. The apprentice has no contract or wage. Accident insurance and travel are paid by the placement agency. The firm can receive economic incentives and funds for training materials. The employer and the team following the apprentice assess his or her working capability and, if satisfied, the employer will hire the person on a regular contract. Work grants. A grant of up to one-third of the normal wage, for a period of six months up to five years is available to the disabled person. There is no cost to the employer who may choose to dismiss or hire the trainee.

On the job training contract. Disabled people are eligible for two years on the job training contracts for young unemployed people from 15 to 29. They receive normal pay and the employer is relieved of social security contributions.
(Marchetti, 1990)

The movement to improve integration has radically effected the importance of the traditional closed institutions which specialised in training disabled people (Vogel-Polsky, 1984). However, the inadequacy of on-the-job training is a recurrent criticism.

Special training workshops

Gerry (1992) gives an account of special training workshops in Genoa. Students between the ages of 15 and 17 with severe social and/or behavioural problems (including both disabled and non-disabled students) may enrol in a special 'partially sheltered' vocational training programme upon completion of middle school. The four special training workshops aim to develop social skills and work skills rather than specific job skills. Young people with mild and moderate disabilities are distributed among the workshops, while young persons with severe disabilities are assigned to only one of the workshops.

The programme has three phases. During the first, both work skill preparation and academic instruction are provided to small groups of students who are assigned to a two-person training team. Students are then assigned to a specific work activity within the workshop on a full-time basis, supervised by a work training instructor. Students are paid a small stipend for the work performed during this phase. The first two phases last between six months and two years. Upon completion of the work activity phase, students are placed in a series of short-term apprenticeships. During these apprenticeships, the employer pays the student 25 per cent of the regular wage and the local health agency contributes 75 per cent. In most instances, during one of the apprenticeship 'rotation' workshops, students are offered permanent, full-time competitive employment.

Placement

People eligible for jobs under the compulsory employment system and entered on special lists are treated in the same way as ordinary workers with regard to the administrative arrangements for placement. Placement is the responsibility of the 6,000 or so local employment offices and 3,700 placement staff. Registration is required in Italy in order to acquire a work permit.

According to Marchetti, the difficulties of placing young disabled people in times of high unemployment and public sector spending cuts have led the vocational training world to look to the co-operatives for training and placement opportunities. Indeed, Marchetti's own organisation, ENIAP, being the largest independent organisation for vocational training, has set up a number of co-operatives for young unemployed and disabled people, mainly in Southern Italy (Samoy, 1992). Samoy distinguishes co-operatives set up primarily to allow

disabled people to acquire or improve their vocational skills (co-operative di inserimento lavorativo) from the integrated production co-operatives which aim primarily to provide permanent employment. He acknowledges, however, that in practice the distinction between the two types is not often clear.

Supported employment

We have no information about supported employment in Italy apart from a well-documented project in Genoa for people aged 16 to 24 with moderate or severe mental retardation or chronic psychological disabilities, who would otherwise be destined for sheltered workshops. The following overview is taken from Gerry (1992).

The project believes that the opportunity to engage in work in fully integrated circumstances is essential to participants' cognitive and emotional development. To this end, the project uses a series of multi-disciplinary professional teams to assess, train and support the employment of disabled participants. Particular emphasis is placed on the thorough preparation of each disabled person for work responsibilities, careful selection of an initial probationary job, and intensive ongoing attention to the psycho-social dimensions of the proposed working environment, particularly with respect to the attitudes and potential of co-workers.

The Genoa project has established and maintained a series of crucial linkages among public agencies, unions, employers and the families of disabled participants. The project relies on co-workers rather than professional staff to provide job skill (as distinguished from 'work skill') training and believes that employer participation in and support for the project will only be assured if employers directly experience the project's success.

Young persons selected for project participation complete an individualised intake assessment and lengthy, individualised work evaluation and training. The special transition team (in consultation with the participant and his or her family) then determines whether the participant is able to enter a one year trial work period leading to sustained, competitive and integrated employment in the private sector. Approximately 80 per cent of those participants completing the intake assessment and work evaluation and training phases of the project enter this private sector strategy. Of the rest, half are referred to sheltered workshops and the remaining ten per cent enter the Genoa project's public sector strategy. The public sector strategy provides sustained, compensated and integrated employment in public agencies, with transfer to the private sector strategy as a long-term goal.

Special transition team members devote substantial effort to matching the participant with an appropriate job. The participant, the employer and the Genoa project then enter into a one year 'trial work' contract. Under this contract, the project fully reimburses the employer for the participant's wages and the employer agrees to subsidise the job training and support activities of co-workers. At the end of the contract period, if the employer decides to employ the participant on a permanent basis the Genoa project will continue to provide employment support through the field action group (in concert with fellow employees) and the employer will assume full responsibility for the salary and benefits paid to the project participant. If the employer decides not to employ the participant on a permanent basis, the special transition team will reassess the situation and negotiate a trial work contract with another employer.

Despite an unemployment rate for the city of over 12 per cent, the project has placed over 300 young persons, with approximately a 95 per cent job retention rate over the first three years of employment. A study of the cost-effectiveness of the Genoa project over the period 1978 to 1984 demonstrated net savings to local government agencies of approximately US\$3,000,000. This figure was arrived at by comparing the costs of the project with the costs which would have been incurred if project participants had originally been referred to sheltered workshops.

OPEN EMPLOYMENT: LEGAL OBLIGATIONS AND RIGHTS

Once in a job in open employment disabled workers have the same contracts, rights and responsibilities as other workers. This principle is generally accepted as underpinning the goal of integration of disabled people. Dismissal after a contract has been signed can occur only when the worker has total incapacity for work as assessed by the national Health Board when demanded by the employer or employee (Treu and Loy, 1995).

People with a duly recognised severe disability have a right to two hours paid leave in a day and three days in a month (Treu and Loy, 1995).

Quota scheme

A full account of the obligations, procedures and impact of the quota scheme is given by Lheureux (1991). This section draws heavily on that account, supplemented by other sources where indicated. The quota scheme in Italy (collocamento obbligatorio), is usually referred to as 'compulsory employment'. Its requirements are set out below but it should be said at the outset that it is widely regarded to have been a failure. Borgaza (1996), for example, notes that from the start the law has been applied bureaucratically and half-heartedly and that it has been largely ineffectual. Numerous proposals for its replacement have been mooted and hotly contested.

As we indicated in our section on employment policy, quota schemes have been in operation since the late 1940s for specific groups but the function of law 482 of 1968 was to pull together and standardise the various provisions. It is notable that the system laid down in 1947 for people disabled through work (and in 1950 for war-disabled people) has remained virtually intact, with very similar procedures obtaining in the late 1980s. Accounts available to us suggest, however, that the 1968 act was seen as a fresh start.

Law 482 of 2 April 1968 governs compulsory employment in the public and private sectors. It applies to organisations employing more than 35 people. Several exemptions apply. Organisations whose business is sea, air or rail travel, are exempt as far as their transport staff are concerned. Firms which cannot achieve the whole quota because of the sorts of activity they engage in may be offered exemption by the Ministry of Employment. Firms are exempt during the course of reconstruction and conversion when they have to lay off workers, or if under formal investigation.

Organisations employing more than 35 people must have disabled people in 15 per cent of the positions overall. The proportions to be allocated to the different categories vary:

- war-disabled 25%
- civilian war-disabled 10%
- disabled through military or public service 15%
- victims of occupational diseases and industrial accidents 15%
- disabled civilians 15%
- orphans and widows of people disabled as a result of war, occupational diseases or industrial accidents 15%
- deaf and dumb (applying only to organisations with more than 100 employees) 5%

People over the age of 55 are excluded from the provisions of the law. Although blind people can be counted within these categories for the purposes of fulfilling the quota, special measures apply to their employment.

To calculate the attainment of the quota, various categories of worker are excluded: domestic workers; apprentices aged under 30; people in military service; and women on maternity leave.

If it is not possible to apportion positions in the way prescribed, the posts may be filled by workers from the other categories. An amendment of 1982 (act 638) means that jobs need not be filled from other categories as long as they remain open (Seyfried and Lambert, 1989).

Departments of the civil service, with a workforce of over 35, must apply quotas as follows: 15 per cent of manual workers; 15 per cent of executive staff; and 40 per cent of auxiliary staff.

Procedures

To benefit from the provisions of the law, people must register at the provincial employment office and furnish various proofs that they meet the criteria, including, if suffering from a mental illness, a health certificate verifying that the person presents no danger to work colleagues or to installations.

The system is under the direction of the provincial employment officers and the Provincial Commission for Compulsory Placement. The latter is chaired by the director of the employment office; members include representatives of disabled people's organisations, employers, unions and a medical doctor. These commissions are charged with overseeing the register and its sub-classifications. They examine the six monthly staffing declarations which employers are obliged to submit and decide on the appropriate placements when there are insufficient candidates in the numbers prescribed. They are also supposed to impose fines on organisations which do not meet their obligations, and advise on exemptions.

Government, regional and provincial departments and undertakings coming under local authorities or any other public agencies are subject to different recruitment regulations from those applying to the private sector. The public sector is empowered to allocate jobs on a competitive or non-competitive basis. When recruitment is non-competitive, new staff are taken on only as jobs fall vacant. The authority may then select the most suitable person from the list and also make use of the 'horizontal job reallocation' system. The only requirement in this instance is job skills.

The private employers who have an obligation to employ disabled people must forward a request for the staff they need to the regional employment office. Applicants must be selected from the names on the list, but employers are free to choose the persons they feel are best suited to the work or the most specialised.

Employment under the quota scheme

In June 1994, 236,000 disabled workers and 74,000 orphans and widows were employed under the quota scheme. Yearly figures on numbers employed under the quota scheme are given in the section on statistics above.

In June 1994, 50 per cent of the total were disabled civilians, 24.5 per cent widows and orphans and nine per cent disabled at work. Lheureux (1991) presents a breakdown by category of disability for 1987, showing numbers unemployed and employed under the quota scheme, reproduced in Table It.3.

From a geographical breakdown (south, central and north Italy) of his 1987 figures, Lheureux (1991) demonstrated that two-thirds of the total registered unemployed were in the south, while only a quarter of the jobs filled under the quota were in that part of the country.

EC (1988) provides information from 1986 on the degree of disability of registered disabled people: 74 per cent had a disability of between 33 per cent and 50 per cent, 20 per cent of between 51 per cent and 70 per

cent, and six per cent of between 71 per cent and 100 per cent.. According to the EC report, this shows that severely disabled people make little use of the compulsory recruitment system. (Since then, the threshold has been changed from 33 per cent to 45 per cent.)

Compliance

Organisations are expected to produce twice yearly reports of the numbers and types of disabled people taken on. (Again, this measure first appears in legislation in the late 1940s.) One of the duties of the local employment offices is to monitor compliance. Corraera (1995) comments on ineffective bureaucratic

Table It.3 Unemployed and employed by category of disability, 1987

Category	Unemployed registered disabled		Jobs under quota scheme	
	Number	%	Number	%
War disabled	0	0.0	12,737	3
Civilian war disabled	2,488	0.6	13,386	3
Disabled in public	1,913	0.5	18,086	5
Service	1,913	0.5	18,086	5
Disabled at work	11,445	3.0	41,879	11
Disabled civilians	332,821	83.0	191,100	49
Orphans and widows	42,197	11.0	82,481	21
Deaf and dumb	3,108	0.8	11,871	3
Others	3,677	0.9	17,471	4
Total	397,649		389,011	

Source: Lheureux, 1991

controls. He suggests that very often enterprises, both public and private, do not transmit the required declarations and that the government is not able to impose control.

The provincial commission sets the level of fine to be imposed on organisations which do not meet their obligations. The money collected is used for vocational training (EC, 1988). However, the fines are so insignificant that frequently companies prefer to pay the penalty rather than employ a disabled person (Corraera, 1995).

Seyfried and Lambert (1989) referred to the 'widespread tendency among companies and public institutions to circumvent the obligation to employ disabled persons'. Particularly in the south, where unemployment is the highest, they say so-called 'false disabled persons' are hired to save the social insurance contributions; in these cases, healthy persons seeking employment are declared to be disabled. Similar observations were made by Vogel-Polsky (1984), who reported a general lack of regard for the provisions of the law, and more recently by Treu and Loy (1995). Borgaza (1996) also reports 'wide-spread evasion' of the law.

Effectiveness

Circumvention is favoured by the way in which the law is formulated. The obligatory employment quotas can be lowered on application. Writing about the situation in the early 1980s, Vogel-Polsky (1984) commented that recent measures largely deprived the original law of any substance by waiving the obligations of firms. Borzaga (1995) comments on the number of large firms in crisis or restructuring, and therefore exempt from the quota system. Moreover, changes in the labour market have led to an increase of manpower in firms not

subject to the quota (Borzaga, 1996). Obligatory placement was also blocked by law 638 of 1982, which cut the budget of the placement offices. Borzaga (1996) also reports the scant attention paid by placement offices to ensuring a fit between workers' occupational needs and jobs offered.

A negative attitude to the law on the part of employers has been reported by Balandi (1995). Borgaza (1996) notes an especial resistance to hiring mentally handicapped people. Balandi (1995) comments on the tendency of judges and courts to favour the employers' point of view and also on the reluctance of employers to bear the extra costs of employing disabled people.

According to Borzaga (1995) in the 1990s in particular, the regional governments tried to improve the effectiveness of the quota with their own laws, for example the introduction of incentives to firms undertaking to respect the quota.

Proposals for reform

In 1996, the Government was examining the reforms of the quota scheme brought before the Senate of the Italian parliament. In the legislature following the elections of March 1994 the Senate Labour Committee drafted a unified bill, drawing on a number of bills presented. However, the bill's passage was interrupted when Parliament was dissolved in Spring 1996. A similar process was underway in late 1996, with the Senate committee again working towards a unified bill based on three further bills, one of which is identical in its quota proposals to the previous unified bill.

All those bills propose a simpler categorisation of protected groups: disabled civilians; victims of occupational diseases and industrial accidents; blind or deaf or dumb; and war disabled and civilian war disabled. They all propose two bands of employers according to size, with differing employment obligations. The previous unifying bill and one of the current bills, for example, propose that employers of between 25 and 35 people must employ at least one per cent and employers of more than 35 must employ at least seven per cent overall from the protected groups. (The other two bills' lower thresholds are 15 and 16 employees, and their upper bands - over 35 and 30 respectively - have a duty to employ at least 12 per cent overall.) All bills propose double counting of disabled people whose occupational capacity is diminished by 80 per cent or more, although smaller employers would have no duty to take on such people.

Reserved employment for blind people

Blind people have a long history in employment policy in Italy, stemming from the strong commitment to labour market integration on the part of certain World War I veterans (Galanti, 1990).

Special legal provisions apply to the employment of people who are totally blind or who do not have more than one-tenth of normal power of vision in both eyes (article 6 of law 482 of 1968). For the purposes of the quota scheme, blind people so defined are included within the other categories of disabled people (war-disabled, public service and so on). However, other legislation dating from 1967 provides for reserved employment for blind people in certain occupations. In fact, blind people are the only group of disabled people in Italy for whom there is reserved employment designated solely for them.

Blind people in Italy mainly work in telephone switchboard operation, masseur physiotherapy and teaching, occupations for which they have special entitlements by law. Blind people are entitled to jobs in these three occupations, in public and private organisations, only if they are registered on the corresponding professional roll, managed by the Labour Ministry. To be permitted to enter the register, a blind person must have a professional qualification and submit to a medical examination attesting that he or she is free from other handicaps incompatible with the tasks entailed by the job.

Telephonists: A 1957 statute with later amendments guarantees the profession of telephone operator and the

necessary training for blind and visually impaired people (Ahuja, 1992). Under a law of 29 March 1985, private and public organisations with a central switchboard of more than five lines must employ at least one registered blind person, or if they employ several switchboard operators, reserve 51 per cent of the jobs for blind or severely partially sighted people (Lheureux, 1991). In 1995, there were around 8,600 blind telephone operators in reserved jobs (Zito, 1995). It has been said that around 70 to 80 per cent of blind working people are employed in this activity (European Blind Union, 1989). The prospects of work in this field appear to be diminishing with the increasing use of single central switchboards in large companies (Zito, 1995).

The costs of special equipment or adaptations fall to the regional board (Galanti, 1990). The region's obligation to adapt the switchboard to the needs of blind people is not always observed; non-compliance is reportedly an expedient way of avoiding the obligation to hire blind people (Zito, 1995). Telephone operators must be offered periodic refresher courses to allow them to adapt their skills to technological developments; however, regions do not always provide the necessary funding (Zito, 1995).

Masseur-physiotherapists: Blind masseur-physiotherapists are entitled to jobs at public and private hospitals, depending on the number of beds. Galanti (1990) reported approximately 2,000 people in these reserved occupations. With the growth of rehabilitation therapy in recent years the activity of masseur-therapist has been greatly reduced. In 1994, a new law (law 29 of 1994) provided also for the obligatory hiring of rehabilitation therapists who hold a specific university diploma. In 1995 there were 1250 blind masseur-physiotherapists and rehabilitation therapists (Zito, 1995).

Teachers: Laws dating from 1955 and 1962 give blind people access to teaching qualifications and to competition for teaching positions. In 1971, access was extended to competitive examinations for the post of headteacher. A later law improved the situation by setting aside two per cent of teaching posts in competition, giving precedence in their choice of school district, reducing the service required for gaining tenure, and giving the option of sighted assistance (Zito, 1995). In 1990, Galanti estimated only 800 blind teachers, including positions at institutes for the blind. Zito (1995) cites approximately 650 blind people working as teachers and headteachers.

Effectiveness

According to Galanti (1990), the laws on reserved employment in Italy, 'fully achieve their aims; so much that unemployment has virtually disappeared' (p.1). This is said to be particularly significant, given high rates of unemployment generally in Italy. According to figures from the Interior Ministry cited by Galanti, there are 12,000 people of working age who are totally blind or have a severe visual handicap (considered here to be 1/20 of normal power of vision). Even granting the differences in definitions used, the figures for reserved jobs occupied by blind people seem to indicate that most people have been found employment in such jobs as Galanti claims.

Galanti suggests that the ability of blind people to work in mainstream employment is enhanced by financial assistance by the state; namely, a blindness related pension for those who do not exceed a given yearly income, and a bi-monthly subsidy aimed at covering the costs for an accompanying person. The latter subsidy is awarded on the grounds of the impairment itself, and therefore is also received by blind people in employment. Galanti comments that it has proved unnecessary to look to sheltered workshops to meet the occupational needs of blind people, a stance supported by the Italian Union for the Blind.

OPEN EMPLOYMENT: FINANCIAL MEASURES

There are, at national level, no measures for compensating employers for lower productivity of disabled workers.

Article 18 of law 104 of 1992 gave to the regions the management of incentives and grants to employers.

Some regions contribute to wage and 'social costs' (EC, 1988) and some grant aid for adaptation of the work place. True and Loy (1995) refer to provisions to employers which can reach 70 per cent of the salary reached by collective bargaining. They also refer to contributions by regions to help with transport to work.

We have little information on payments to employers, although Seyfried and Lambert (1989) suggest that subsidising employers' social security contributions was sufficiently widespread to allow for its abuse by unscrupulous employers.

There is no financial provision at national level to support disabled people in self-employment. Certain regions offer set-up loans (Lheureux, 1991).

SHELTERED WORKSHOPS

This section is devoted to 'sheltered workshops' and not to 'sheltered employment', as in other country reports, reflecting the distinction felt in Italy between the sheltered workshop system, which is viewed by its adversaries as a marginalising system preventing integration, and the 'integrated co-operative' movement, considered below. While legislation allows for sheltered workshops, according to a communication from the Ministry of Labour and Social Insurance the provision is little used.

It should be noted that users of sheltered workshops have no contracts of employment and do not necessarily receive remuneration for their activities. Both Samoy (1992) and Lheureux (1991) give accounts of sheltered workshops and we rely on those sources unless indicated otherwise.

Aims and target group

There is no precise definition of 'laboratori protetti' (sheltered workshops). The definition used in a study cited by Lheureux was: a provision aiming to stimulate disabled people into activity and work, but also providing care and preparing some people for open employment. In around a third of the 300 or so workshops identified in that study 'the emphasis on care is over-riding to the extent that they can hardly be called workshops' (Samoy, 1992, p.103). The main activities of the other 200 workshops are carpentry, metal and textile work, painting and sculpture, agriculture, horticulture and cattle breeding, with carpentry and metal work predominating.

There is no national statement of who is eligible, although regional health or social plans sometimes indicate that users are people who cannot (readily) be placed in open employment as a result of the nature or severity of their disability, not even after vocational training. Admission to workshops is generally dealt with by the local departments of the municipal social services and the health services.

Organisation and funding

Sheltered workshops were already in existence before the act of 1971 (act 118 of 30 March) made it possible to encourage such initiatives. For a combination of reasons, the act was not followed by any national ruling on how sheltered workshop provision should be put into effect. Samoy (1992) cites as contributory reasons: the attention focused on implementing the quota system under the 1968 act; the transfer to the regions of a large number of health, welfare and vocational training services; and the ideological opposition to separate provision for disabled people which accompanied the de-institutionalisation movement.

Even though sheltered workshops disappeared from public interest in the early 1970s and were eclipsed by

the emergence of the integrated co-operatives, they continued to grow in numbers. Lheureux's account of a study in 1989 by Labos shows that around a third of workshops were set up before 1981, a third from 1981 to 1984, and a further third from 1985 to 1989. In 1989, 57 per cent were operating in the north, with only 15 per cent in the south. Samoy reports that the number of sheltered workshops is still expanding and that the National Health Plan 1989-1991 issued by the Ministry of Health provides for the establishment of 150 more workshops. This is in the face of considerable opposition, notably from the unions and disabled people's organisations. Samoy cites a 1991 manifesto branding sheltered workshops as marginalising and as dumping grounds for disabled people.

Workshops are set up by local health services, municipalities or in some areas by the local social and health care services (Unità socio-sanitaria locale). The health care agencies are the main agents for promoting their development; central funds are available for regions wishing to provide new workshops. Different sorts of financial support are available depending on regional policy and practice, whether they are public or private establishments, and the sorts of joint arrangements made with the public authorities.

Users

Users of the workshops do not have employment contracts. They sometimes receive remuneration for their work.

There are no national data or numbers of people in sheltered workshops. The Labos study in 1989 gives information on 3,276 users of 182 workshops (out of the workshops identified as offering productive activities). Men make up 60 per cent of the users. Over 80 per cent were aged 45 and under; 41 per cent were between 18 and 25 years old. Approximately two-thirds were mentally handicapped, nine per cent were physically disabled, two per cent had sensory disabilities and 21 per cent had multiple disabilities.

WORK INTEGRATION CO-OPERATIVES

Borgaza (1996), Samoy (1992), Lheureux (1991), Marchetti (1990) and Seyfried and Lambert (1989) all give accounts of the origins and practice of work integration co-operatives (cooperative integrate). Marchetti (1990) writes that they were set up to demonstrate to a prejudiced society that disabled and socially disadvantaged people are not unreliable, unproductive, undisciplined and potentially a damaging influence in the workplace, if they are given the right tasks and the support of a community.

The growth of these co-operatives paralleled the break-up of large psychiatric institutions and was closely associated with the democratic psychiatry movement. According to Seyfried and Lambert (1989), the first co-operative was founded in 1974 in Trieste by patients of a psychiatric clinic who rebelled against working unpaid and set up a co-operative to do the same work under contract, later extending their sphere to work outside the clinic. The movement gained momentum with the closure of most psychiatric institutions in the late 1970s and the realisation that the quota scheme was failing in its aim of providing integrated employment, especially for the mentally ill to whom the quota system did not apply. The founders of the co-operatives in the late 1970s and early 1980s were often parents, staff of psychiatric institutions or vocational training centres, as well as municipalities and local health organisations, and socially committed groups of Catholic volunteers.

Aims and target group

The spread of 'social co-operatives' was part of the wider development of not-for-profit associations and co-operatives offering welfare services. In fact, many co-operatives offered both welfare services and work

integration; however, such developments ran counter to the Italian law on co-operatives (Borgaza, 1996). The law eventually passed in 1991 gave specific recognition and discipline to social co-operatives. It distinguished between two types, according to aims: those delivering social, health and educational services; and those providing work integration for defined categories of disadvantaged people. The two aims cannot be pursued by the same society. As a result of the sharp distinction in the law, many social co-operatives engaged in both activities were forced to reorganise; according to Borgaza (1996) 'in many cases this reorganisation process is still going on'.

Samoy (1992) distinguishes between two types of work integration co-operative. The first type (cooperative di inserimento lavorativo) develop production and service activities, in which disabled participants can acquire or improve their vocational skills. Many were founded in connection with vocational training courses and many have a much higher percentage of trainees than permanently employed persons. Although training and progression are the prime objectives, in practice disabled people are not precluded from working in these co-operatives for longer periods, or even from remaining there indefinitely as members or employees. The second type is the integrated production co-operatives (cooperative integrate o di produzione e lavoro). They aim to provide permanent employment for disabled and other disadvantaged people within the framework of the co-operative, although these co-operatives can also provide training for disabled people. In the practice, the distinction between these two types of co-operative is not always clear, and their activities are quite similar. Borzaga (1996) emphasises the distinction between the two prime aims of integrating disadvantaged workers into open employment after a period of training and of providing stable integration into the co-operative's activities.

The target population of the co-operatives is described in legislation as 'disadvantaged people in the labour market'.. This means people with a physical, sensory or mental disability, people with a mental illness undergoing treatment or leaving an institution, drug addicts, alcoholics, and those convicted and sentenced to alternative punishment. Some co-operatives address themselves to one of these categories in particular while others take on several. The law of 1991 states that the work integration co-operatives have to employ a minimum 30 per cent of people from these categories in order to qualify for financial support.

Provision

According to a national survey in 1986 there were 268 work integration co-operatives, of which 89 were in Lombardia and 71 in Veneto. A regional survey of the latter found, in 1990, 128 and 71 respectively. The pronounced difference in territorial distribution is shown in Table It.4.

>From a postal survey of social co-operatives carried out in 1993 by the Consorzio delle Cooperative (cited in Borgaza, 1996) it is possible to estimate that between 4,500 and 5,000 disadvantaged workers were employed in social co-operatives.

Funding and organisation

The 'cooperative integrate' are independent self-managed organisations. They operate on principles of solidarity and mutual interest; private profits are ruled out. The staff members, support personnel, trainees as well as family members or sponsors can become 'soci' of the co-operatives. As a rule, all of the employees of a co-operative are also 'soci' of the co-operative.

On a national level, the co-operatives form two large umbrella organisations the 'Lega delle Cooperative' and the 'Confederazione delle Cooperative'.. These are lobbying organisations, also providing services such as help at start-up, information, training, wages administration, market research and so on. Some co-operatives are locally grouped, fulfilling the same role, and boosting the co-operation and exchange between the

affiliated co-operatives.

Until law 381 of 1991 there was no clear legal basis for financing of co-operatives by the regions. Before then, funding came from regional authorities, provinces, municipalities or the local health services. In a few regions, funding had been arranged by law. The support from the regional authority could take many forms: contributions to the capital used for start-up; allowances for premises and equipment; subsidies for job adaptations, refunds of social contributions to the wages; the awarding of work grants; learning contracts or training premiums; and the subcontracting of services. Municipalities and local health services most often gave their support in the form of commissions to

Table It.4 Distribution of work integration co-operatives

NORTH		CENTRAL		SOUTH	
Piemonte	11.6%	Toscana	1.5%	Abruzzi	-
Valle d'Aosta	1.1%	Umbria	1.1%	Molise	1.1%
Lombardia	33.2%	Marche	-	Campania	1.1%
Trentino A.A.	2.3%	Lazio	2.6%	Puglia	-
Veneto	20.9%			Basilicata	1.1%
Friuli V.G.	5.2%			Calabria	-
Liguria	0.4%			Sicilia	2.3%
Emilia Romagna	13.4%			Sardegna	1.1%
Total	88.1%	Total	52.0%	Total	6.7%

Source: Acler et al., 1992

the co-operatives; they are sometimes the co-founders of co-operatives (Samoy, 1992). The financial support granted to co-operatives varied greatly from region to region, both with regard to initial investments and to subsidies for operating costs. These funds were, however, scarce in all of the regions. A report of a 1992 conference on 'social firms' noted that 'of the 100 co-operatives which were set up by 1980, 40 have been eliminated by market forces, 15 have become economically independent, and the others have just managed to survive (CEFEC News, 1, 4, 1993).

Borzaga (1996) notes that the law of 1991 has been followed by regional support laws and that policies adopted by local administrations, although still haphazard, have encouraged the development of work co-operatives. Positive initiatives include grants to start up and boost schemes, measures to reduce the labour cost of work entrants and priority to co-operatives in allocation of public works contracts.

The law prescribes forms of tax relief for social co-operatives and exemption from payment of social security contributions (amounting to 30 per cent of the gross wage in Italy) for the disadvantaged employees of the work integration co-operatives.

Labour conditions

The occupational status and the conditions of pay of the disadvantaged people employed by the co-operatives

are not coherently regulated on a national level. Employees on a learning contract, a training contract, or a work grant have a special status. Other employees can become full members of the co-operative. From judicial practice, it appears that they are sometimes considered as employees covered by current employment legislation, and other times as entrepreneurs. This gives rise to problems concerning the regulation of their conditions of pay or dismissal. Employees can have an employment contract for either a fixed or an undetermined duration, and they can work part-time or full-time. In some cases, collective agreements are drawn up between the co-operatives and the unions (Samoy, 1992).

Activities

There is little detailed information about the activities of work integration co-operatives. Borgaza (1996) refers to maintenance of parks and public gardens, often under contract to public bodies, and sub-contracted craft and assembly work, usually for industrial firms. He notes that personal services are also widespread.

The 1986 national survey cited by Acler et al.. (1992) identified the main types of activities of work integration co-operatives, shown in Table It.5.

Employees

Information on the characteristics of employees may be drawn from regional studies. For example, a study of the Lazio region covered 34 integrated co-operatives with a total of nearly 1,000 members; it

Table It.5 Main activities of work integration co-operatives

Type of activity	% of co-operatives
Agriculture	26.9
Industrial activities	21.3
Craft activities	59.7
Commercial activities	10.8
Services	68.3

Source: Acler et al., 1992

states that 57 per cent of the employees were disabled. Of those, 41 per cent were mentally ill or mentally handicapped, 32 per cent were physically disabled, two per cent had sensory handicaps, and 25 per cent had multiple handicaps. Slightly more than half (55 per cent) had a degree of invalidity larger than two-thirds, 32 per cent of exactly two-thirds, and 13 per cent of one-third. The large majority (91 per cent) had never worked before their admission to the co-operative, and they had little to very little formal education (Samoy, 1992, pp.105-106).

A national postal survey carried out in 1993 by Consorzio Gino Matarelli is cited by Borgaza (1996). It provides information on the employees of 237 co-operatives - 110 exclusively work integration co-operatives and 127 both work integration and services co-operatives. Together they employed 4,747 able-bodied and not disadvantaged and 1931 disadvantaged workers. More than 50 per cent of these respondents were concerned

with the work integration of disabled (33.4 per cent) and mentally handicapped (18.6 per cent) people.

Transition

In 1994 a survey to assess the effectiveness of work integration was conducted on a sample of 33 social co-operatives located in four regions of Northern Italy. The 466 disadvantaged people employed by the 33 co-operatives surveyed can be divided as follows:

- 33 per cent were still undergoing the work integration process
- 26 per cent joined the co-operative on a stable basis
- 42 per cent left the co-operative.

Of those who left, 44 per cent had completed the schedule and among these, 66 per cent joined the labour market, 79 per cent of whom were in employment (Borgaza, 1996).

On the one hand, the survey highlights the satisfactory success rate in the improvement of work skills and in work integration. On the other, it stresses the still limited access for disadvantaged workers to the open labour market, mainly due to selectivity policies implemented by firms, the absence of systematic relations between social co-operatives and firms, and the low technological level of production activities of social co-operatives that prevents the workers from reaching high skills.

SUMMARY

The first 'frame law' relating to disability and disabled people was enacted in 1992. The main thrust of the act is to remove obstacles, improve access and make it possible for disabled people to enjoy mainstream services and facilities. It introduced a completely new definition of a disabled person: someone who has a physical, psychological or sensory impairment, stable or progressive, which may cause learning or relationship problems, besides problems of integration into work. The act also extended the quota system, established in 1947, to include people with psychological impairments.

In Italy, the twenty regional administrations can create laws in health, social and employment policy, within and outside national legal frameworks. An aim of the frame law of 1992 is to overcome inequalities in regional policies and provision for disabled people.

Historically, legislation has pertained to categories of disabled people, depending on the origin of their impairment or its type. In employment policy there is a strong tradition of special provision for people disabled through war or military service and for blind people. Disabled civilians, those disabled through occupational accident or disease, and deaf and dumb people are also treated as special categories. Compulsory employment of disabled people dates from 1947, when a quota scheme, register and rules of compliance were first introduced, setting the pattern for subsequent enactments pertaining to different categories of disabled workers. This scheme is generally recognised as unsatisfactory but no alternative has been agreed.

A further significant feature of employment provision for disabled people in Italy is the co-operative movement. Work integration co-operatives, which developed outside of a legal and policy framework, although with funding from regional and local levels, are now recognised and regulated by the law of 1991. They provide work opportunities notably for psychiatrically disabled, among other disabled or disadvantaged people. Sheltered workshops, by contrast, are sometimes seen as marginalising institutions.

Responsibility for vocational training provision lies with the regions. Special courses are available for people not capable of attending ordinary courses. Traditional closed training institutions are contracting and vocational training centres are moving towards including elements of on-the-job training, in part to overcome a perceived gap in placement provision, but the lack of on-the-job training remains a major criticism. Social co-operatives also offer training and placement opportunities. A supported employment project for young people leaving school in Genoa has been demonstrated to be successful in creating opportunities for fully integrated work.

Placement in the open labour market is the responsibility of local employment office placement staff. Disabled people seeking placement under the compulsory employment regulations must be registered and have a reduction of occupational capacity of at least 45 per cent. Registration in general is high in Italy as it is necessary in order to obtain a work permit.

The present day compulsory employment scheme is complex with quotas for separate categories - amounting to 15 per cent overall. People over 55 are excluded. The quota applies in the public and private sectors where more than 35 people are employed, although there is scope for exemption. Interpretation of quotas achieved is complicated by the inclusion of orphans and widows of certain groups of disabled people. In 1994, 236,000 disabled people were employed under the quota scheme compared with 260,000 registered disabled unemployed. There is marked regional variation, with significantly fewer employed and more unemployed in the southern third of the country. Commentators have referred to a widespread tendency among companies and public institutions to circumvent or disregard the obligations of the law.

Reserved employment provision means that most blind people have found work, mainly as telephone operators, masseur-physiotherapists and teachers. Blind people, whether in work or not, are aided by a benefit aimed at covering the costs of an accompanying person.

At national level there are no open employment measures aimed at compensating employers for lower productivity of disabled workers, although some regions contribute to wage costs or give grant aid for adaptation of the workplace.

There are over 300 sheltered workshops. Users do not have employment contracts and do not all receive remuneration. The health and social care agencies which promote workshops have described users as people who cannot be placed in open employment as the result of the nature or severity of their disability.

The most significant new form of employment is the work integration co-operative, a type of social co-operative. The growth of social co-operatives paralleled the break-up of the large psychiatric institutions; many set out explicitly to increase the autonomy, responsibility and power of disabled and socially disadvantaged people (including addicts, alcoholics and prisoners on non-custodial sentences). Some work integration co-operatives aim to allow participants to acquire or improve skills; training and progression are the main objectives. Others provide permanent employment in a framework of solidarity and mutual interest. Private profit is ruled out. Financial support is available from the regional and local levels. An estimated 4,500 to 5,000 disadvantaged people were employed in social co-operatives in 1993.

In 1994 the working age population of Italy was 51.2 million, the labour force was 22.68 million and the unemployment rate was 11.3 per cent.

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LUXEMBOURG

POLICY AND INSTITUTIONAL CONTEXT

Disability policy and legislation

The Constitution of the Grand Duchy of Luxembourg, which dates back many years, makes no reference to disabled people. Legislation has been introduced at different times for specific aspects affecting disabled people and there is no comprehensive act or code. Initially, legislation focused on the support of disabled people within the social security system. Laws governing rights in their employment first appeared in 1959 (Mangin, 1983).

Until 1973, disabled children were released from compulsory schooling. A new law then obliged parents and the state to provide education and training for disabled children. More concerted action was promised after the 1984 elections, in part influenced by the International Year of Disabled People (WHO, 1990). Newly founded educational and training establishments generated vocational training centres, which in turn, led to sheltered employment opportunities (Seyfried and Lambert, 1989). The late 1970s and early 1980s saw a number of measures to subsidise home adaptations, to support financially people needing personal attendance at home and to make parking easier. According to Seyfried and Lambert (1989) intensive efforts to enable former patients in the large institutions to return to the community have meant greatest progress for people with learning difficulties, both vocationally and in integration into the community, with well-organised decentralised forms of communal living.

The thrust of policy in the second half of the 1980s derived from a concern to overcome the lack of co-ordination, notably in social, medical and therapeutic services. An interdepartmental co-ordination office was set up in 1985. Drawing on representatives from the Ministries of Labour, Health and Education, from the Employment Administration, and from the professions, its objectives included improving co-ordination of

measures, stimulating new initiatives in integration, enhancing communication, making bureaucracy simpler and more accessible, involving disabled people in decisions affecting them and generally changing attitudes towards disabled people (Lheureux, 1991).

According to the WHO (1990) account, relating to the situation in 1985 with additions in 1987, the intention was to concentrate on administrative rather than legislative measures, 'setting up an appropriate infrastructure and providing generous subsidies for private initiative' (p.193) to improve the situation of disabled people. As we show in the following section, however, the government did have recourse to legislation in relation to employment.

Evolution of disability employment policy and legislation

Historically, social concern for disabled people was initially focused on people whose impairments occurred in the course of war or through accidents at work. An order in 1945 thus established an office for the placement and occupational rehabilitation of these two groups of people. Moreover, any employment falling under the jurisdiction of the Ministry of Labour and Mines, and capable of being carried out by disabled people, was to be reserved for them. Legislation in 1959 subsequently extended the office's remit to all people with physical impairments. This extension was inspired by the international programme relating to disabled people that had been established in 1952 by the UN and other specialist bodies, in particular the International Labour Organisation.

The 1959 legislation (later extended by Orders in 1961 and 1962):

- defined the status of disabled worker as anyone whose working capacity is reduced by at least 30 per cent owing to physical or mental disability
- set up the Office for Recruitment and Vocational Retraining of Disabled Workers (OTH) which operated within the Department of Employment
- required national and local authorities and public establishments to reserve at least two per cent of their staff vacancies for physically disabled workers
- imposed a similar obligation on private sector firms employing more than 50 staff
- obliged private employers of between 25 and 50 people to give disabled people priority for a post for which they are particularly suited.

The OTH could also make a financial contribution to the wage paid by the employer to the disabled worker, if output fell below the norm.

Sheltered employment also then existed, set up by various associations, but not subject to specific legislation.

The crisis in the steel industry in the 1980s affected the entire heavy industry sector and led to profound structural change in Luxembourg. New jobs required relatively high levels of qualification (Seyfried and Lambert, 1989) and new technology skills (WHO, 1990) leading to a distinct mismatch between the training provided for disabled people and the labour market demands (ibid).

Legislation concerning disabled workers was reformed in 1991 with the law of 12 November 1991 on disabled workers. The new law reformed and co-ordinated legislation relating to the vocational rehabilitation, integration and re-integration of disabled workers.

The law takes a number of fundamental principles into account. Rehabilitation should be regarded as a continuous process, from the onset of the disability through to vocational integration under the best possible personal and working conditions. It is considered vital to determine right from the start the extent of the physical and mental capabilities of the person concerned, in order to decide which occupations would be

most suitable. Once the disabled worker has received occupational guidance, training should be provided that would offer him/her the best possible job appropriate to his/her skills. The next step is to guarantee employment opportunities for disabled workers by employing, on a compulsory basis, a certain percentage of disabled workers among the workforce of firms, with the state setting an example. Finally, it should be customary for disabled workers to receive a salary in line with their working skills and abilities.

To achieve this, an effective permanent body was charged with the task of providing advice and help in finding employment or re-entering the labour market. It was felt important to ensure that the services specialising in placing disabled workers would operate within the bodies responsible for placing other workers, and that the services are readily accessible. For maximum efficiency, the services responsible for placing disabled people must be part of the normal employment services and must maintain close links with them. Personnel must have special training.

The changes to the law are summarised here and expanded upon in later sections. The law aims:

- to integrate the service responsible for placement and occupational re-training of disabled workers as a service within the Employment Administration
- to broaden the legal field of application to people with learning difficulties or with a sensory impairment
- to determine measures to be taken aimed at occupational integration or re-integration of disabled workers
- to determine, by means of national legislation, the form and content of measures relating to placement, vocational training or re-training and introduction to work, or of training courses on adjustment or re-adjustment to work
- to increase the level of compulsory employment for the benefit of disabled workers in firms and enterprises in the public and private sectors
- to develop and adapt the scope of the Employment Administration personnel by increasing staffing levels in the service provided for disabled workers through the use of specialised staff
- to create a legal framework for public aid from which private groups or bodies can benefit.

(MISEP, 39, Autumn 1992, pp.16-17)

In some respects the act of 1991 required further orders to put its provisions into effect. Personnel changes within the Employment Administration came into effect in December 1991 and the remainder of the new law took effect from 1 January 1992.

Policy-making and implementation

In Luxembourg no single ministry has sole responsibility for disabled people. Various ministries have particular responsibilities and financial assistance is funded from various ministerial budgets.

A concern to improve co-ordination between ministries led, as noted above, to an interdepartmental co-ordination office. A further aim was to enhance communication with disabled people, both by simplifying bureaucracy and through the establishment, in 1985, of a National Council for the Disabled. The National Council was created in part to co-ordinate the various private, but state subsidised, associations representing the interests of particular groups of disabled people. This move was also in response to pressure from organisations representing the interests of disabled people.

Under the terms of an order of 14 April 1992, a special committee was established to consider appeals against decisions to refuse a worker's registration as disabled, or the withdrawal of such registration. This committee operates to the same rules as an earlier one established by an order of 7 July 1987.

As shown in the previous section, recent policy changes laid a new emphasis on the role of employment support services in providing advice and help in finding employment. Services responsible for occupational training and placement of disabled workers were established as part of mainstream Employment Administration services, with specialist staff providing a service for disabled people.

Role of social partners

Employers have contributed to national policy-making and implementation, notably through the participation of the Federation of Luxembourg Industrialists on a variety of committees and working groups concerned with the employment of disabled people. The Federation contributed to the formulation of the 1991 legislation and is a member of the special committee established by the Ministry of Labour to consider appeals against registration refusals or withdrawals.

DEFINITIONS OF DISABILITY

For the purposes of the 1991 Act, disabled workers are people disabled through accident at work or war and people with a physical, mental or sensory disability. The capacity for work must be reduced by at least 30 per cent.

STATISTICS

In July 1995, the population of Luxembourg was 410,000; the number in employment was 198,000. In 1994, the overall rate of unemployment was about three per cent (not including frontier commuters); the rate is expected to increase in the short term.

There are few data to shed light on the extent of disability in the working population. In 1991 there were 16,700 persons drawing (contributory, means-tested) invalidity pensions; these pensions are available to a person under 65 who, following a prolonged illness, infirmity or degeneration, has lost working capacity to the extent that he or she is prevented from exercising his or her last profession or any other occupation corresponding to his or her skills and aptitudes (Grammenos, 1995).

A total of 2,414 people (0.62 per cent of the population) received a disability allowance (for help or care from a third person) in 1992; just under two-thirds of those were aged 16 to 64; and more than a third of those of working age were available for the labour market but prone to long-term unemployment (EC, 1995).

Registered disabled workers

People can be recognised as disabled when their capacity for work is reduced by at least 30 per cent. Recognised disabled workers are registered. At the end of 1995, a total 1,330 people had been recognised as disabled since the 1991 law came into force.. Table L.1 shows cases considered by the commission d'orientation et de reclassement professionnel (COT) since 1987.

Table L.1 Recognition of disabled workers by COT

Year	Cases	Recognised	Refused
1987	153	99	11

1988	151	97	3
1989	150	67	3
1990	154	70	10
1991	160	76	8
1992	426	275	48
1993	496	301	53
1994	769	514	61
1995	584	218	123

Source: STH communication

Employed and unemployed disabled workers

Since 1985, alongside a doubling of the proportion of the long-term unemployed, there has been an increase of the number of people with particular labour market integration problems, notably those disadvantaged because of incapacity or age who in 1993 represented 70 per cent of the registered unemployed (EC, 1995).

According to the Luxembourg report to the EC in 1988 (EC, 1988) the number of workers employed under the quota system was 3,000.

EMPLOYMENT SUPPORT SERVICES

The OTH, under the Ministry for Labour, was from 1959 the prime institution for all matters regarding the assessment and placement of disabled people. It included on its steering committee representatives of the two sides of industry and of private associations. Under the 1991 Act, the OTH was integrated within the Employment Administration and the functions it previously carried out conducted by specialist staff within the Employment Administration, in the Service for Disabled Workers (STH).

Current STH policy places considerable emphasis on three key phases in the rehabilitation of disabled workers: initial guidance, the general training process, and specific occupational training. These activities are typically carried out in a rehabilitation and training centre.

Assessment and guidance

The task of deciding whether a worker should be recognised as disabled fell to a new commission (COT) under the 1991 act (article 3(1)). The number of cases considered by COT is shown in the above section on statistics.

Taking account of the needs of the disabled person, COT then proposes to the Employment Administration appropriate training or other action. In 1995, COT proposed 132 measures for registered disabled workers.

Training

The Employment Administration bears the cost, totally or partially, of training, rehabilitation and retraining.

The costs mainly include allowances for physical rehabilitation, preparation and return to work, in addition to other costs in respect of these measures. In the case of candidates who do not receive invalidity pension, full accident pension or the guaranteed minimum income, the Employment Administration may pay monthly premiums and allowances up to the level of the full unemployment benefit (order of 14 April 1992).

In 1995, on the advice of COT, STH supported training measures for 45 candidates and made 33 monthly premiums and allowances. In addition, STH paid the costs for 12 disabled workers placed in specialised residential rehabilitation institutions. The number of disabled workers supported in training by the STH dropped from a high of 186 in 1989 to 45 in 1995 as a consequence of an order in September 1988 which enabled the relevant insurance bodies to bear the costs.

The Government report in the WHO (1990) publication recognised the mismatch between traditional training for disabled people and the requirements of the labour market in the mid 1980s. This is confirmed in the mid 1990s by the fact that two-thirds of the disabled people who approach the Service for Disabled Workers (STH) have only completed a basic education (STH communication). Seyfried and Lambert (1989) observed, however, that new directions in training for work in the agricultural sector had proved extraordinarily successful, in part through careful study of its market needs and of working conditions.

Placement

In 1995, STH placed 58 registered disabled jobseekers with private sector employers. Details of accompanying financial measures are given in a later section.

OPEN EMPLOYMENT: LEGAL OBLIGATIONS AND RIGHTS

Quota scheme

Legal obligations on employers consist of compulsory employment only. To be treated as a disabled worker for the purpose of the quota a person must be recognised as disabled by the authorities and registered. If a disabled person declines a post considered suitable or training measures proposed by the authorities, he or she loses rights to jobs under the quota system. People taken on under the quota system have a contract and the same rights and obligations as other workers.

1959 Act

Under the 1959 Act, the state, local authorities, the railway company and other public establishments were required to set aside for disabled workers at least two per cent of the posts available. This applied to jobs at all levels. In the private sector, enterprises regularly employing at least 50 workers were required to set aside for disabled workers two per cent at least of all the posts available at all levels. Those employing at least 25 and at most 50 workers had to give disabled workers priority for a post for which they are particularly suited. Victims of industrial accidents in a public service or a private enterprise retained a priority right to occupation of a post in the service or enterprise concerned.

Seyfried and Lambert (1989) report that the penalties levied when the quotas were not observed were minimal. According to the EC report (1988) and Lheureux (1991) the maximum fine was LFR 10,000. Public services and firms were required to publish their results. Vogel-Polsky, reporting in 1984, stated that the quota 'seems to have reached its target (by non-compulsory methods and the employers taking a case-by-case approach)' (p. 32); Seyfried and Lambert suggest there was in fact a waiting list.

1991 Act

Article 5 of the 1991 Act set out new quotas for both the public and the private sectors, taking effect from 1 January 1992. The changes are as follows:

- Public bodies must now meet a five per cent quota.
- Private sector employers with a staff of at least 25 must employ at least one disabled worker full-time.
- Private sector employers with a staff of at least 50 must meet a two per cent quota.
- Private sector employers with a staff of at least 300 must meet a four per cent quota.
- Private sector obligations depend on the Employment Administration finding a demand from suitably qualified disabled people.
- People taken on under the old law may be counted towards the new quota.
- Article 6 (1) obliged employers to inform the authorities, six months after the law came into force, how many disabled workers they employed and, after that, to notify vacancies immediately.
- The new Act offers a 'reward' to private sector employers who employ more than the obligatory quota; they are exempted from the employers' social security contributions (article 5(2)).
- Penalties are set out in article 10: if a private sector employer refuses to engage the prescribed number of disabled people, a compensatory payment equivalent to 50 per cent of the minimum wage must be paid to the Treasury each month for each post not occupied by a disabled person, until the employer complies.

Although recruitment of disabled workers occurs irregularly and is constrained by economic circumstances, the new rules appear to have had some effect (STH communication, 1997). A 1995 census of disabled people in public employment, carried out under the auspices of three ministries, found a rate of 3.83 per cent (135 individuals) in national government service and public establishments and a rate of 1.07 per cent (67 individuals) at local authority (commune) level, notwithstanding response rates of 75 and 70 per cent, respectively, and the likelihood that certain workers did not declare themselves to be disabled. A study by STH of employment of disabled people in the private sector found 504 individuals employed on permanent contracts at the end of 1996. This figure excludes those who found employment without STH assistance.

Penalties for not meeting the quota have not been imposed. Collaborative working between employers and placement services is preferred to compulsion (STH communication, 1996).

OPEN EMPLOYMENT: FINANCIAL INCENTIVES

Incentives to employers

Wage subsidies

Under the old arrangements, if disabled people were placed through the services of OTH the employers could receive wage subsidies for diminished productivity for them for a period of three years amounting to 50, 40 and 30 per cent of the minimum statutory wage for the first, second and third years respectively.

The act of 1991 (and subsequent order of 14 April 1992) changed the rules for wage subsidies. The proportion of the salary granted depends on the severity of the disability. The amount varies between 40 per cent and 60 per cent of the gross salary, including the employers' share of the social security contribution. The level may be reviewed periodically by the Employment Administration, taking account of changes in disability and how far the worker has adapted to the workplace.

The 1992 order specifies the financial measures designed to encourage integration or reintegration into employment, including a settling-in allowance, payable monthly to the employer (for a period of up to 24 months) as compensation for the slight loss of production that occurs initially in connection with a new job.

Table L.2 shows the financial support to disabled people placed in work or who returned to work in 1995.

Table L.2 Integration/re-integration into work in 1995

	New occupational classification	Extension/renewal
Placement	2	-
Placement and social security contributions	9	8
Placement and 40% of salary	30	16
Placement and 50% of salary	16	5
Placement and 60% of salary	1	-
Total	58	29

Source: STH communication

Reward for exceeding the quota

In addition to wage subsidies, employers may now claim a 'reward' of exemption of employers' social security contributions if they exceed the quota.

Adaptation of the workplace

Under the old arrangements, employers could be compensated for adapting the workplace to meet the needs of a disabled worker. Lheureux (1991) reports that in 1988 the OTH allocated LFR 83,000 for these purposes.

The provision was retained in the 1991 Act. Grants also cover provision of technical aids and teaching materials. Numbers are small: in 1992 there were 15 candidates, and in 1995 only two. The budget for those measures in 1994 and 1995 (provisional figures) was LFR 1,634,000 and 500,000 respectively. In 1992 and 1993 it stood at 454,000 and 940,000.

Incentives for disabled people

Extra paid leave

Disabled workers are entitled to an extra six days' paid leave (financed by the State). Annual requests stood at 34 in 1988, rising to 175 in 1993. In 1994 and 1995 the number of requests was 142 and 104, respectively. In 1995, the provisional budget allocated to this measure was LFR 8,482,00, compared with LFR 1,574,000 in 1992.

Self-employment

Self-employed workers may (providing they meet the conditions applying to the definition of disabled workers) be granted exemption from supplementary social security contributions and, in cases of particular hardship, total or partial exemption from compulsory contributions, as determined by an order of 25 November 1992. Exemptions are granted for a period of one year and are renewable.

SHELTERED EMPLOYMENT

Aims and target group

Sheltered employment is intended for disabled people who are unable to obtain or to hold down employment in the open market. It aims to provide them either with supported work in an ordinary work setting, or with work in a sheltered environment. There are both sheltered workshops and work-aid centres. Within ordinary work settings, it is believed particularly important that disabled workers do not feel isolated from other employees.

There is no legal classification of people eligible to use sheltered workshops or work-aid centres. Samoy (1992) states that sheltered workshops are mainly intended for moderately disabled people and that work-aid centres are meant for severely disabled people.

Sheltered workshops are part of larger rehabilitation and vocational training centres, thus facilitating the right placement of disabled people (Samoy, 1992). Sheltered workshops adopt the structure of normal companies as far as possible. They have their own production as well as sub-contract work. Co-operatives have been set up to deal with the commercial aspects of goods produced by the workshops. The work-aid centres offer work-experience, therapy, training and medical-social support.

Provision and funding

Sheltered employment establishments in Luxembourg are founded and run by organisations outside the public sector. Before 1991, there was no legal recognition, but the state provided financial support, approved annually in the state budget. (Seyfried and Lambert (1989) called this 'a gentleman's agreement'.)

The 1991 Act on Disabled Workers (Article D) permits the Ministry of Labour to finance the investment and running costs of certain sheltered workshops. This applies to workshops set up by 'collectives' or other bodies which obtain the agreement of the Ministry. The act sets out the terms under which agreement may be granted. It applies to economically productive units which pay a salary to disabled workers, which adapt conditions to the needs of disabled people, and which promote transition to work in open employment.

In 1995, the STH paid 256 subsidies for disabled workers in three centres for sheltered work. In addition, STH contributed to the salary costs and paid the extra leave costs for 56 disabled workers in a further foundation.

The (provisional) budgetary allocation in 1995 was LFR 39,504,000, a substantial proportion of the total STH allocation in that year of LFR 115,937,000 for measures in favour of disabled workers.

Labour conditions

Some employees in the sheltered workshops work under contract and they receive the minimum pay, while others only work there temporarily to receive career training. In the work-aid centres, most people receive the guaranteed minimum income.

Activities

Lheureux (1991) reports activities such as agriculture, gardening, egg and rabbit farming, printing, silk-printing, book-keeping, pottery and ceramics, joinery and cabinet making, and packing, assembly and industrial sub-contracting.

Employees

There are no formal statistics on numbers and characteristics of people in sheltered employment. The EC Report (1988) stated that sheltered workshops employed 100 people. Seyfried and Lambert (1989) reported around 250 sheltered jobs for disabled people; 'most of them for mentally disabled people, a smaller percentage for physically disabled people and the tiny remainder for psychiatrically disabled persons' (p.L4). For the purposes of his study, Lheureux approached three large provider organisations for data. Their workshops and work-aid centres catered for 296 people (of whom unspecified numbers were in training, not permanent employment). A quarter were aged under 25, and short of a half (45 per cent) were between 25 and 35. Only six per cent were aged between 50 and 60. The most significant disability was learning difficulties for 85 per cent, while physical impairment was the most significant for 15 per cent.

Transition to open employment

Seyfried and Lambert (1989) discuss special initiatives based in sheltered employment which trained mainly people with learning difficulties in activities which were also found, and were even in demand, in the open labour market. Horticulture and poultry and egg farming offered promising opportunities both for engagement in economically viable types of activity and for transition to the open labour market. The authors describe European Social Fund initiatives, undertaken by an association of parents of children with learning difficulties, which included placement and follow-up support in the open job market. They also note the placement record of a second large centre with EC support and new moves to make direct enquiries of potential employers and to provide post-placement support for people with learning difficulties.

Sheltered jobs

Seyfried and Lambert (1989) describe an initiative, supported by the European Coal and Steel Union, run by a major iron and steel corporation which worked in several towns in Luxembourg. The project was intended as a large-scale attempt to integrate mostly physically disabled people in the industry, thus saving jobs. This involved the company identifying jobs in a number of sectors which were listed as 'sheltered jobs' and matching identified disabled people to them. Where there was a mismatch, workplace redesign and vocational qualification measures were tried. The authors say it was found possible both to create full jobs for disabled people and maintain existing jobs despite growing unemployment and relocations of production in the steel industry.

SUMMARY

In Luxembourg legislation affecting disabled people is specific rather than comprehensive. Recent policy concerns have focused on increasing co-ordination between health, education and employment administrations and the professions and among private but state-subsidised organisations representing the interests of particular groups of disabled people.

Legislation governing disabled people's rights in employment first appeared in 1959 and remained basically unaltered until the new law of 12 November 1991. The 1991 Act extended its provisions to include people with learning difficulties and people with sensory impairments. Under the Act, disabled workers are people disabled through accident at work or war and people with a physical, mental or sensory impairment; capacity for work must be reduced by at least 30 per cent. To be eligible for the provisions of the Act a person must be

recognised as disabled by the authorities and registered. If a disabled person declines a post or training measures proposed by the authorities, he or she loses rights to employment under the quota scheme.

Rehabilitation is viewed as a continuum, starting with assessment and vocational guidance provided by a specialist team. Appropriate occupational training and placement services follow. Employment is to be guaranteed via public and private sector quota obligations. Finally, there is compensation for reduced productivity.

The Act of 1991 introduced new arrangements for the administration of employment support services. The specialist office for the recruitment and vocational training of disabled workers was integrated within the mainstream employment administration, with increased levels of staff specialising in providing a service for disabled workers. Orders in 1992 set out the form and content of vocational rehabilitation, training and placement. Training previously lacked regulation and demonstrated a mismatch with changing labour market needs.

The 1991 Act also changed the rules for compulsory employment of disabled people. The quota which national and local authorities and public establishments were required to meet was increased from two to five per cent. In the private sector, a flat rate two per cent quota which had applied to firms employing more than 50 staff was replaced with a variable obligation depending on size of firm and starting with firms employing 25 or more. Employers with at least 25 staff must employ at least one disabled worker full-time. Those with at least 50 must meet a two per cent quota, as before, but those with at least 300 staff must meet a four per cent quota. The private sector obligations depend on the employment administration showing a demand from suitably qualified disabled people. The compensatory penalty for a private sector employer was increased to the equivalent of 50 per cent of the minimum wage to be paid each month for each post not occupied by a disabled person. The penalty is not imposed, however.

Financial support to employers of registered disabled people also changed with the 1991 Act. Wage subsidies for less productive workers taken on under the quota scheme remain under a new formula. Compensation for adapting the workplace also remains. New measures include a monthly settling-in allowance.

Disabled people on training courses are granted a monthly return to work allowance, covering preparation and return to work. Disabled workers are entitled to an extra six days annual leave paid by the state. Self-employed workers who meet the definition of a disabled person are entitled to reduction of social security contributions.

Sheltered employment was legally recognised by the 1991 Act. Sheltered workshops operate like companies, with own production as well as sub-contract work. Work-aid centres offer work experience, therapy, training and medical and social support. Both are part of larger rehabilitation and vocational training centres and are run by organisations outside the public sector. The Employment Administration finances the investment and running costs of certain workshops, providing they are economically productive, and pays integration subsidies. There are no formal statistics on people in sheltered employment; in 1995, 312 subsidies were allocated for workers in sheltered work. A large majority have learning difficulties.

In 1995, the total population of Luxembourg was 410,000 and 198,000 were in employment. The unemployment rate is around three per cent.

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NETHERLANDS

POLICY AND INSTITUTIONAL CONTEXT

Disability policy and legislation

The written Constitution, dating from 1983, prohibits discrimination on the grounds of religion, belief, political opinion, race or sex, 'or any other grounds'.. There is no specific legislation protecting disabled people from discrimination. There is no comprehensive law relating to disabled people. It is reported that in the early 1980s policy proposals were laid before and approved by Parliament but never reached the statute book (WHO, 1990; Council of Europe, 1990). Rather, policy objectives have been pursued for certain aspects through separate legislation and policy documents (Krug, 1995).

The broad objective of policy for disabled people is to ensure that they can take as active a part as possible in all contexts and every sphere of life, according to their age and in relation to their social and cultural setting, and can achieve full development within their possibilities. Family, school, work and society at large are expected to be equally involved in activity aimed at meeting those objectives. However, primacy is given to preservation of freedom of choice and responsibility for decisions by the disabled person (Krug, 1995).

While the Netherlands has had a strong tradition of protective welfare-based services for disabled citizens, and of high levels of spending on such services, the concept of individual responsibility is increasingly dominant. There is reported to be less public support for policies of collective responsibility (the solidarity principle).

Provision traditionally has been heavily specialised, according to type of disability. In the voluntary sector a large number of organisations represent the interests of particular categories of disabled people. Housing and care provision has traditionally been institutional. While younger people with physical impairments increasingly achieve independent living in the community in adapted housing and care complexes, in 1995, 45,000 out of 101,000 people with learning difficulties lived in large-scale institutions (village communities) housing between 80 to 600 people in each. There is no policy to close those institutions, and some have opened in the last decade, although there also has been a growth in hostel-type accommodation, with about 14,000 adults with learning difficulties living in around 550 of these small-scale homes.

Education policy

The Netherlands traditionally has had two parallel school systems, for special and regular education, with special schools for different types of impairment. The government aims to reduce use of special education in general and residential special education in particular, by encouraging children to attend ordinary schools.

The Ministry for Education has experimented with incentives to regular schools to serve disabled students, initially in the face of opposition from educators (Sailor, 1991). Timmermans and Schoemakers-Salkinoja (1996) comment that incentives have not had much effect. While funds have been allocated for extra teachers, child guidance and auxiliary support, the temporary nature of most arrangements appears to have been inadequate for children who need permanent facilities. There are insufficient incentives to schools to invest in necessary expertise and adaptations for physically disabled pupils. Latterly, educators have proposed pupil-specific budgets allocated to every disabled child, to be spent on extra facilities at the chosen school (Timmermans and Schoemakers-Salkinoja, 1996).

Residential education for blind and partially sighted children has been reduced to a minimum but a large proportion of deaf and hearing impaired children still attend residential schools. The expansion of special secondary education for those with learning disabilities has resulted in greater numbers who complete a vocational training programme. The school performance of physically impaired children lags behind that of non-impaired children: 30 per cent of the generation born after 1945 failed to complete secondary school, compared with ten per cent of all adults (Timmermans and Schoemakers-Salkinoja, 1996).

Labour market policy

The population in the age range of 15 to 64 years is growing faster than in most European Union countries. The level of labour market participation among people aged 15 to 64 is low for both men and women. There is a high proportion of part-time labour and a large percentage of the population withdraws from work at a relatively early age.

The government expects to solve employment problems and reduce the public expenditure burden by re-shaping a highly institutionalised system into a more market-like arrangement through privatisation, deregulation and shifting of responsibility to individual economic actors (MISEP, 1995).

Central government policies to facilitate the growth of regular employment follow three lines: lowering the cost of labour, for unskilled work in particular; stimulating the flexibility of the labour market; and differentiation of working hours and work patterns. Extra jobs are being created for the long-term

unemployed, mainly in the care sector. Incentives have been introduced in the social security sector. The government has also been trying to rationalise the various job creation measures for different groups of unemployed people (Krug, 1995).

The public employment service role has withdrawn to public placement and brokerage, and notwithstanding efforts to improve co-ordination between labour market organisations and agencies, a pluralistic approach is being fostered through contracting out public services to independent organisations (MISEP, 1995).

The role of the state versus the free market is intensely debated in the Netherlands. Considerable discussion, and proposals for legislative reform, have focused on the future of collective agreements over labour conditions, regulation of dismissal and hours of work, the role of public employment services, and income protection (Knegt (ed), 1995).

Evolution of disability employment policy

Historically, most employment measures have been aimed at physically disabled people. Long-term mentally-ill people traditionally have not been included when employment policies for disabled people have been developed (OECD, 1992) and their right to work gained some recognition only relatively recently (Seyfried and Lambert, 1989). Employment of people with learning difficulties in the open labour market has been very unusual.

Regulations for the placement of the disabled workforce were first introduced in the 1947 Employment of the Disabled Act. Its provisions included voluntary registration as a 'less able-bodied' person at a regional employment office which issued a certificate to that effect; an obligation on public and private sector organisations with over 25 employees when recruiting new personnel to recruit a 'less able-bodied' person to meet a two per cent quota; and an obligation on the employer to adapt the workplace and working tools to the disabled person. The legal definition was 'those whose prospects of earning their living are substantially restricted by reason of infirmity, sickness or mental or physical differences'.

The obligation to meet a quota appears to have had little effect: the definition was too vague, and the option of registering was never widely used (Krug, 1990). Instead, financial support for sheltered workshops became the main instrument of central government's policy to stimulate employment for disabled people (ibid).

The involvement of central government in sheltered employment dates from the 1950s when a subsidy scheme for pre-existing municipal sheltered workshops was created (Krug, 1995). With financial support from central government sheltered employment grew rapidly and in 1969 the Sheltered Employment Act was enacted. Its official aim is to offer social security in the form of substitute employment suited to individual abilities and directed as far as possible to maintaining, restoring or improving the individual's capacity for work, leading to work under normal conditions for some. Growth was sustained with unlimited financial support from central government. By 1984, there were 82,000 employees in 350 workshops and a series of modern companies had been created.

In 1984 the government decided that the growing costs could no longer be supported, and after intense political debate, set about a radical restructuring of financial and administrative relationships between central government, local authorities and the sheltered work companies. Experimental restructuring began in 1989 and new legislation is expected to come into force in January 1998. At the end of 1995 there were 85,000 full-time equivalent employees - in European terms, a high proportion of the working population, equalling 1.5 per cent of total employment.

In the 1960s and 1970s, the social security system was revised and extended to give an adequate income not

only to workers who become disabled (insured through the WAO - the Act insuring workers against the risk of unfitness for work on account of sickness or accident) but also to self-employed disabled persons who become disabled and to those disabled since early youth (through the AAW).

Since the mid 1980s disability employment policy has aimed to contain the growth in recipients of disability benefits, widely acknowledged as a social problem. Thus, reform of the disability benefits system and measures to promote the employment of disabled people are closely interlinked. When the WAO was introduced in 1967 it was assumed that beneficiaries would not exceed 100,000. By 1968, the number of WAO beneficiaries reached 163,500 and rose to 610,000 in 1985.

The Handicapped Workers Employment Act 1986 (WAGW) had three aspects:

- an obligation on employers, employers' organisations and workers' organisations, in public and private sectors, to facilitate the employment of people receiving disablement benefit. The aim was to achieve a quota of between three per cent and five per cent within three years, by voluntary effort, to be followed by imposed requirements if necessary
- a commitment to reduce the difficulties faced by disabled people, both by aids and adaptations and by accommodating to their needs in the workplace, housing and transport
- increasing co-ordination of measures on the ground through preventive measures and institutional collaboration.

The reforms in the 1986 Act abandoned the registration requirement, which was seen as a disincentive (Daunt, 1991), and extended eligibility to all people receiving disability benefits or an invalidity pension. Also eligible were those disabled employees for whom special provisions had been made in relation to their disability, or needed to be made, to enable them to carry out their work.

Accompanying the act was a commitment to explore other ways of reducing the demand for disablement benefits. Attempts in the 1980s failed to stem the increase in WAO beneficiaries by reducing the level of benefits. By 1989 total benefits (WAO and AAW) reached 846,000. Explanations for the growth include the increase in the number of insured persons; a broader view of what constitutes sickness, including a greatly increased recognition of psychological disturbances (by 1991 one in three of those eligible were so diagnosed); a widening gap between the skills of previously employed disabled people and the demands of industry; increased competition for jobs; the tolerant application of eligibility rules; and the relatively high level of benefit. The government announced in 1991 a range of legislative and other action to encourage and help people to leave benefits.

The 1990s saw a new policy emphasis on increasing individual responsibility and freedom of choice in place of reliance on generous social security benefits. Disability benefits have been made more difficult to access and levels have been reduced. Commentators have described the move to make the social security system more selective and market oriented as a shift away from the solidarity-collective model to the selective market model. Because the collective principle compensated for loss of income previously there had been no stimulus to promote prevention and reintegration (Klosse, 1995). The introduction of market economy principles is intended to stimulate personal interests and competition. (For a detailed account of the reforms and their effects, see Aarts et al., 1996a.)

The 1990s has seen considerable legislative change, detailed later in this report:

- the Reduction of the Number of Benefit Claimants Act 1992 (TAV), aiming to stimulate employers and employees to prevent sick leave and to keep partially disabled people at work, or ensure their return to work
- the Act to Restrict Claims on Disablement Benefit 1993 (TBA), under which entitlement to a benefit under the WAO was assessed in a stricter way

- the Reduction of Sickness Absence Act 1994, which requires the employer to pay at least 70 per cent of the salary for the first weeks if a worker is absent through sickness or incapacity, to take responsibility for counselling aimed at encouraging the sick employee back to work, and to contract with private providers of occupational health services
- The Dutch Labour Conditions Act, as amended 1994, which stipulates that all employers must pursue a labour conditions policy which aims at preventing absence through sickness.
- the abolition of the Sickness Benefit Act in March 1996 and extension of employer responsibility for coverage of sick pay to a maximum of 12 months.

Further legislation was being debated at the end of 1996.

In summary, policy at the end of 1996 had three main strands:

- legal obligations to promote and maintain the employment of disabled people, and to prevent the occurrence of disability
- financial incentives directed mainly at employers
- measures to reduce individual reliance on and access to disability benefits.

Policy-making and implementation

Co-ordination of disability policies at central level is the joint responsibility of ministers who cover health, housing, education, work and income, under the direction of 'the minister in charge of co-ordination of policy for disabled people'. The joint ministerial group, established in 1968, is assisted by an Interdepartmental Steering Committee on Policy for Disabled People. In addition, the lower house of the Dutch parliament has a Special Committee on Policy for the Disabled (WHO, 1990).

The inter-ministerial working group consults with umbrella organisations for both physically disabled and mentally handicapped people.

The Ministry of Social Affairs and Employment is responsible for the 'labour and income' system covering both labour market policy and income security.

In 1991 the Employment Service was transferred from a Directorate General of the Ministry of Social Affairs and Employment to an autonomous public body supervised by the Minister. From then on, the central employers' federations, the central employees' federations and central government became equally responsible for policy making, through a Central Employment Board and through 28 similarly constituted Regional Employment Boards. These Boards have ultimate power in all important policy and administrative decisions. This model has been under review, following political discontent. In 1995, withdrawal of the three ministries from the central board was envisaged, to be replaced by independent experts (MISEP, 1995) but by the end of 1996 no change had taken place.

The Employment Service concentrates on vocational guidance and training, brokerage and placement, assistance to unemployed jobseekers, and dealing with dismissal and resignation notifications. There is a growing sector of private placement and temporary work agencies operating under licence.

From 1998 the Employment Service will take over legal responsibility from the Industrial Insurance Boards (IIB) for the (re)integration of partially disabled workers.

The municipalities have administrative responsibility for directly subsidised job creation schemes established by the Ministry of Social Affairs and Employment. These include sheltered workshops and supported employment schemes.

Industrial Insurance Boards

The Employment Service is institutionally separate from the administrative organisations which provide social benefits. The unemployment insurance system and the insurance system for disabled workers have been administered (until March 1997) by bipartite Industrial Insurance Boards (IIB). (The tax financed unemployment assistance scheme is administered by Municipal Departments of Social Services.) In recent legislation the insurance and assistance organisations have been asked to move beyond benefit provision towards helping the unemployed re-enter the active labour force (MISEP, 1995).

These Boards have been established for different industrial sectors and are managed by representatives of employers' associations and trades unions. As well as administering the national social insurance schemes, they have executed supplementary insurance schemes, established by the social partners, such as the additional benefits in cases of sickness leave higher than the legally prescribed 70 per cent income replacement.

(Re-) integration of (partially) disabled workers was the legal responsibility of the IIB from the mid eighties, entailing re-integration with the former employer, placement in a sheltered workshop or placement with a new employer. From March 1987, administrative organisations, known as AdOs, took over these functions from the IIB. The Employment Service recently began to contract with the Insurance Boards to provide placement services in the open market, with a view to taking over legal responsibility in 1998.

A New Act on the Administrative Organisations of Social Insurance Schemes (NOSV) created a bipartite national institution to take charge of the General National Insurance Funds for unemployment and disability. Its general objective was co-ordination between the different Industrial Insurance Boards. Breaking the legally protected monopoly of the insurance associations is part of the move towards reducing the incidence of disability benefit awards.

DEFINITIONS OF DISABILITY

There is no single definition of disability or of a disabled person. The laws concerning disability benefits, sheltered employment and the WAGW all use their own definition.

The official term for workers who receive 'disability' benefits is 'unfit for work', not 'disabled'. Under the social security legislation a person is legally unfit for work when the capacity to obtain an income from labour is diminished. Income earned before onset is compared with income the person can still derive from occupation. Willems et al. (1995) describe the process. Workers who claim compensation for unfitness for work because of illness or infirmity (conditions which are not defined in the social security legislation) have to undergo a medical and technical assessment. A trained health insurance specialist, working for the IIB, carries out a medical examination, often complemented by tests by clinical specialists, to reach a clinical diagnosis and an estimate of the person's physical and / or mental restrictions and remaining capabilities. The level of work disability is determined by a technical procedure. A computerised system matches restrictions and capabilities against the job demands of more than 7,000 occupations (Functie identificatie systeem, FIS, owned by Tica). If a fit is found with at least three occupations, the person is deemed able to work. Whether the jobs are vacant is not relevant, as long as there are at least ten real jobs for all of the three occupations. However, if the loss of earning capacity is high enough, the person can be labelled as officially disabled: the level of disability is dependent on the difference between the income from the last job held and that of the second best paid of the three best paid jobs.

Benefit recipients are termed 'totally disabled' where no or minimal income can be derived from work, or 'partially disabled' where a certain level of income can still be earned. There are in fact seven disability categories, ranging from less than 15 per cent, 15 to 25 per cent and so on up to 80 to 100 per cent disabled.

STATISTICS

The Netherlands has no registration or other accepted systems for identifying physically disabled people in the general population. The Social and Cultural Planning Bureau (SCP) estimated the number of people with physical disabilities from a number of population surveys in the 1980s and early 1990s. According to a number of population surveys, more than one-third of the Dutch population experiences some slight disablement. More than 11 per cent, that is more than one and a half million people, suffer from one or more disabilities that they consider serious or very serious.

There has been no population research among people with learning disabilities. The SCP study defined them as people who use or are known to use facilities for mentally handicapped people and are registered as such, estimated at about 100,000. About 60 per cent were between the ages of 20 and 55. Table N.1 gives a breakdown by age and severity of mental disability.

Table N.1 Mentally disabled persons by age and severity of disability, 1992

Age	Disability		
	Serious	Slight	Total
0 - 19	14,000	17,900	31,900
20 - 34	17,500	18,700	36,200
35 - 54	14,500	10,000	24,500
>55	5,000	2,600	7,600
all ages	51,000	49,200	100,200

Source: SCP

The working population of people with learning disabilities is estimated to comprise less than 34,000. In 1993, about 28,100 were in sheltered employment, with about 3,400 waiting for a job in sheltered employment. Around 200 day centres cater for 9,000 people with learning disabilities. There is a general movement towards proper working at day centres (Ward, 1992). Thus, only very few people with a mental handicap between 16 and 65 have a competitive normally paid job. The proportion who succeed in finding such jobs from a sheltered workshop sharply decreased in 20 years to almost none in 1994.

Disabled people in employment

While 75 per cent of non-impaired 18 to 55 year olds are employed, it is estimated that only 40 per cent of the moderately impaired and one-third of the seriously impaired do paid work (Timmermans and Schoemakers-Salkinoja, 1996). Since 1981, regional employment offices have not been required to record disabled people in a special category of those registered as seeking work.

The government has recently decided to require employers to create permanent registers of disabled employees from 1998, with tax reductions dependent on numbers of disabled workers achieved. Now the requirement is more or less voluntary with no sanctions. However, definitions cause problems.

Table N.2 shows annual numbers of people defined as disabled because they receive disability benefits and

of people in sheltered employment. About 20 per cent of those defined as disabled under the social security definition are working; of these 15 per cent have paid jobs and five per cent work in sheltered employment centres (Klosse, 1995).

Table N.2 Disabled people in open and sheltered employment, by year

Year	Disabled (social security definition)	Sheltered work
1989	844,300	79,000
1990	880,800	82,200
1991	902,600	84,100
1992	912,000	84,900
1993	921,000	85,700
1994	894,300	86,600
1995	860,000	87,000

Research has concluded that two single disabilities are mainly correlated with low labour participation: disabilities related to personal care; and those related to stamina. It is postulated that these groups are often unable to cope with the demands of the organisation, such as fixed timetables or work tempo, as they do not fit into existing work regimes.

There is some information about type of jobs held by deaf people and blind people. According to two surveys conducted in the Netherlands, 'over 60 per cent of deaf working people are in menial jobs such as carpentry and masonry' and there is 'no prospect of change for the next three generations', although many more professions are now open to deaf people (Pattipeilulu, 1993, p.27). Telephone switchboard operating was the most popular form of employment for visually impaired people in the mid eighties (European Blind Union, 1986) but employment chances are now reduced with the spread of new technologies.

EMPLOYMENT SUPPORT SERVICES

There has been little emphasis in the Netherlands on preparing disabled people for re-entry to work. In 1991, public expenditure as a percentage of GDP on labour market measures for disabled people and on cash benefits was less than 0.01 per cent; the amount is so low because few claims are made (Aarts et al., 1996). The emphasis on income protection and the use of disability benefits as a route out of the labour market minimalised the supply of rehabilitation services (ibid).

People who have been excluded from the labour market for many years lack the necessary qualifications. It has been argued that reskilling, and opportunities to see at first hand their potential through work experience and traineeships, are necessary to overcome employers' negative attitudes towards disabled employees (den Uijl et al., 1996).

In the Netherlands vocational assessment and guidance is an integral part of the benefit system. Essentially, the same agency assesses disability for work, the level of disability benefit and opportunities for employment. From March 1994, the agency concerned - the GMD (Gemeenschappelijk Medische Dienst) - was incorporated into the GAK (Gemeenschappelijk Administratie Kantoor).

Each team consists of a vocational rehabilitation expert, a national insurance medical practitioner and a legal assessor. The vocational rehabilitation expert investigates work possibilities with local employers, may call in training and other experts, designs a reintegration programme, helps obtain employment and solves adaptational problems. As well as assessing work disability, the GAK aims to reduce obstacles to the disabled person's chance of work and to support the person in the process of finding a job.

Training

Vocational training traditionally has specialised according to disability. There are two centres for vocational training of physically disabled people. The placement rate was reported in 1989 to be extremely good (80 per cent from one centre found a job within a year) but success may be attributed in part to a rigorous selection procedure in the first instance (Seyfried and Lambert, 1989). In 1995, the placement rate remained high. There is one rehabilitation centre offering training for visually impaired people.

Integrated policies are also being adopted. For example, the Netherlands has set a goal of doubling the intake of disabled individuals into the apprenticeship training system; plans include more flexible module-based courses which take into account specific needs and aptitudes of young disabled people (OECD, 1992). At present, five per cent of training places at the Centra Vakopleiding (CV) are reserved for disabled workers being assisted by the Industrial Insurance Boards (MISEP, 1995). CV are long established Employment Service institutes providing retraining for the unemployed. They provide full-time and part-time day courses, lasting from four to 18 months, in some industrial occupations and in clerical work.

Training is mainly the responsibility of disabled people themselves and of the agencies which deal with benefits and placement. Research indicates that more seriously disabled people find it difficult to access adult education, not just because of physical access problems but also because of limited guidance by providers and lack of adapted teaching materials and methods. Costs of training are a problem for some. In 1993, the GMD funded training for an estimated 10,000 people but the target group was estimated at 100,000 by the 1995 Report on Disabled People. Employers invest little in training for employees at risk of becoming disabled, and nothing at all in training for jobseekers (Timmermans and Schoemakers-Salkinoja, 1996).

Placement

In 1983, 56 per cent of people remained unemployed after the reintegration activities ended, even though most effort appeared to be concentrated on younger, less disabled people. In 1992, the reintegration activities of the GMD covered 102,600 persons. By the end of that year nearly half were still out of work. Of the remainder, according to Krug (1995):

- 26,900 returned to a job with their former employer
- 14,300 found a job with a new employer
- 9,200 become self-employed
- 1,800 went to sheltered employment.

Supported employment

A number of new forms of placement and supervision have been developed for jobseekers with learning difficulties. Krug (1996) reports some private initiatives for people with mental disabilities in mainstream employment to be assisted by a job coach who accompanies them, trains them for the job and helps with problem solving. Krug (1996) suggests that the impetus came from the growing waiting lists and admissions policies of sheltered workshops. These work integration projects, together with the efforts of the GMD and

GAK are reported to have been reasonably successful, judged by the number of people placed as a percentage of those able to work (Timmermans and Schoemakers-Salkinoja, 1995).

At first, these initiatives were financed from a range of sources, including the European Commission. As an interim arrangement, employees receive wages related to productivity, supplemented by a disablement benefit of up to 100 per cent of the statutory minimum wage; a subsidy for the costs of job coaching has been introduced in the social security arrangements. When the new Sheltered Employment Act is passed local authorities will be able to fund supported employment. Jobs created will be treated, for the purposes of government funding, as equivalent to jobs in sheltered employment. Supported employment then will be open to all categories of disabled people (Krug, 1996).

START

START was set up by the Employment Service in 1977 as a non-profit foundation participating in the market for temporary work agencies. It hires out hard-to-place unemployed jobseekers to other employers. Disabled workers are a target group. Recently, START has diversified to provide out-placement and recruitment and selection services, as well as some vocational training programmes. In 1994, START made 129,000 placements. Three per cent of the total placements in that year were disabled people. Placements can lead to permanent contracts; in 1987, the number of permanent employment contracts signed following temporary placements arranged by START amounted to 33 per cent (MISEP, 1995), with similar results in 1995.

OPEN EMPLOYMENT: LEGAL OBLIGATIONS AND RIGHTS

There are five sets of legal obligations: to try to employ disabled people wherever possible; to increase the representation of disabled people in the workforce; to adapt the work and workplace to the needs of disabled employees; to retain workers who become disabled; and to prevent the occurrence of disability.

Employment promotion

Article 2 of the WAGW of 1986 imposed the general obligation on employers, employers' organisations and employees' organisations to co-operate in trying to employ disabled people wherever possible. Particular attention must be paid to making jobs suitable for disabled people when new jobs created. A number of possible voluntary means were suggested by the authorities: employers collaborating in establishing a training unit; improvement of working conditions; identifying or reserving jobs suitable for disabled people; creating alternative job opportunities; and using the services of the various bodies authorised to act as labour exchanges.

Employers are encouraged to make use of the wage dispensation regulation and to take up opportunities for compensation for adaptation of jobs, working methods and equipment (see below).

Quota scheme

A quota scheme was introduced in the 1947 Employment of the Disabled Act. The Act introduced voluntary registration as a 'less able-bodied' person at a regional employment office, and an obligation on public and private sector organisations with 25 employees or more when recruiting new personnel to recruit a 'less able-bodied' person to meet a two per cent quota. It is uncertain whether the obligation to employ a two per

cent quota had any effect. The law gave the employment offices no criteria to decide who was to be considered as 'less able-bodied' and the option of registering was never widely used (Krug, 1995).

The 1947 Act was superseded by the WAGW in 1986. The basic principle of the new legislation was that the percentage of disabled employees per company should be between three and seven per cent. The Act placed an obligation on employers, employers' organisations and trades unions to reach this target by facilitating the (re)employment of people receiving disability benefits in particular. In the first three years, 1986 to 1989, the target was to be achieved voluntarily. Daunt comments that the WAGW was 'genuinely innovative' in its 'creative use of the dimension of time' as a means of offering employers a fair chance to comply with its requirements (Daunt, 1991, p.64).

If after the first three years the target percentage was not met, the plan was to impose a flexible quota of between three per cent and seven per cent to be set for each organisation. Under article 3(3) of the WAGW, quota measures were not to be taken by government until the Social Insurance Council had given advice to do so, based on the opinion of the Council that a certain sector, or part of a sector, has done too little to realise equal opportunities for disabled people. This arrangement was intended to acknowledge the constraints facing certain sectors and recognise the amount of effort applied to equal opportunities. Under article 4, the relevant ministries had the power to exempt companies who could not achieve quotas within the time limits and to set extended time limits. There was reported to be a fierce opposition from employers' organisations to any imposition of quota (Krug, 1990).

If the imposed quota was not met, a financial contribution was to be paid to the General Disability Fund, the fund that provides for certain of the disability benefits and the special facilities provided by the GMD. The amount of the financial contribution was to be about 10,000 guilders per unoccupied post per year (15/38 of the statutory minimum wage). Employers in branches of industry where quotas were imposed would be entitled to a subsidy of the same amount per year for every disabled employee taken on above the quota. The government is currently considering the introduction from 1998 of a reward for employers who exceed a quota in the form of tax reductions.

Coming into immediate effect was the requirement on the employer to keep and make available records of who is employed as a disabled person and of funding received in connection with their employment, and of any fines imposed for non-compliance (article 10). Penalties for not complying with these requirements are a prison sentence of at most three months or a fine 'of the third category'. If the information is falsified, then a prison sentence of up to four years or a fine 'of the fourth category' applies (article 17).

The Netherlands assessed the situation in a report published in 1989. At the start of 1989, 113,600 disabled people were employed under the terms of the WAGW law; this represented 2.2 per cent of workers with a contract of more than 15 days (Lheureux, 1991). Fifteen per cent of that number were already in employment. According to a representative survey of 4,000 firms in all sectors, conducted by IVA TILBURG in early 1989, an average of 2.88 per cent of all posts in the private sector and 2.55 per cent of posts in the public service were occupied by people who classified themselves as disabled or were so classified by others. If only people with degrees of incapacity between ten per cent and 80 per cent are considered, the figures are reduced to 1.8 per cent and 1.5 per cent (Seyfried, 1992, p.63). Krug (1995) reports that an evaluation after five years of the new legislation showed that the percentage of the target group in the labour force grew in the years 1986 to 1992 but was still only two percent. Den Uijl et al. (1996) note that the government employs the smallest percentage of disabled people compared with the various industrial branches.

In terms of its prime aim of reducing the number of disability benefits recipients, the Act is thought not to been a success: 75 per cent of the 113,600 employed under the terms of the WAGW received a disability benefit, and only two per cent lost their benefit on taking up the job.

Given the gap in all sectors (including government services) between the 2.2 per cent found in 1989 and the

official policy objective of an overall quota of five per cent, the government concluded that a compulsory quota across all sectors was not a practicable policy (Report to the ILO for the period 1 July 1990 to 30 June 1992). It has been suggested that, given employer opposition to a compulsory quota, the government feared wholesale violation of the law were it put into effect (Klosse, 1995). However, as a stimulus affecting all employers in all sectors was required, the government decided to make permanent the arrangements set out in WAGW whereby employers must keep records of the number of disabled people in their organisations.

Accommodation of disabled workers

The 1947 Employment of the Disabled Act had imposed an obligation on the employer to adapt the workplace and working tools to the disabled person. Article 2 of the WAGW imposed a more general obligation on employers, employers' organisations and employees' organisations to make adjustments in the workplace to accommodate disabled people. Article 6 imposed statutory obligations on employers to 'adapt the structure and allocation of the work, the division of jobs, the production and working methods, the tools to be used in the work etc., and the set up of the company to the needs of its disabled employees'.. The factories inspectorate may compel employers who fail to meet this obligation. If in conflict, employers must appeal to the Minister.

In terms of motivating employers to take action to accommodate disabled employees, the act 1986 has had a modest impact. According to a national assessment published 1989, of the total 113,600 disabled persons employed under the terms of the WAGW, six per cent were defined as disabled as a consequence of employers taking action; and four per cent benefited from adaptations to the work place. Lheureux (1991) commented that the responsible organisations rarely apply sanctions against employers who do not adapt the workplace to meet the needs of disabled workers.

A study showed that about 60 per cent of all incapacitated workers who succeeded in finding a (new) job could work again because the employer fitted the job demand to the workers' condition (Nijboer et al., 1993).

Provision to encourage retention

The Working Environment Act (1980) requires employers to ensure best possible working conditions and to take measures to enable the employee to retain suitable work. However, a lack of initiatives to set up good working environment policies has been reported from many companies (OECD, 1992). The Netherlands introduced a subsidy scheme for employers who engage experts to help them draw up their own working environment policy and for employers who initiate projects or develop systematic routines for prevention and early rehabilitation of marginalised workers (ibid).

Research found that about one-third of all workers with incapacity benefit were of the opinion that they could have still been working, had the employer put some effort into adapting the working conditions to their physical condition (Nijboer et al., 1993).

Disabled workers may be dismissed only with the permission of the Employment Service. The law stipulates that as a rule a labour contract should not be broken within the first two years of a worker's disability. The regional director must weigh the interests of the employer and the disabled worker. The employer must prove that there is no reasonable opportunity to redeploy the worker in another, possibly adapted job. If necessary the regional director may request specialised advice (Krug, 1995). After the two years the employer is usually granted dismissal permission (Aarts et al., 1996).

A relevant request must be made to the Labour Court which has to investigate whether disability is the reason

for the request for dismissal. Klosse (1995) notes that this is not always easy to determine and that in many cases the disability is not made apparent.

Employers could circumvent the law by offering the employee a new job with a new labour contract and a trial period, giving the opportunity to dismiss the employee after two months without the need to ask for permission. To avert widespread use of this loop-hole, the Labour Court stipulated that a new trial period may be attached to the contract only where the employee is offered a new job for which he has neither skill nor experience (Klosse, 1995).

If an employee becomes disabled and can no longer perform the normal tasks of the job, the employer must offer an alternative job. If the employer fails to do so, s/he runs the risk of paying a fine equal to the wages the employee would have earned. However, sanctions are rarely imposed by the IIB (Klosse, 1995). (The fact that employers are also clients of the IIB, may make the IIB fearful of losing custom in an increasingly privatised market.) The obligation to reposition workers who become disabled in employment poses problems for employers, particularly now that, pursuant to the Delegation Decision (BBA), employees who are less than 15 per cent disabled must also be found suitable jobs.

Since January 1994, the employer has been responsible for the monitoring and control of sick workers, and is required to do everything possible to encourage recovery.

Prevention of disability

Recently the government has introduced measures intended to encourage employers to prevent the occurrence of disability.

The 'malus' scheme, abolished at the end of 1995, was one measure. It was introduced in tandem with a 'bonus' scheme. The malus was a lump sum which the employer had to pay to the General Disablement Fund when an employee became eligible for disability benefit or when an employee's benefit had to be raised because of reduced earnings (i.e., when an employee became (more) disabled). The theory was that employers would do all they could to avoid paying the fine by preventing their employees from becoming disabled. Moreover, by re-employing the disabled person, the employer was exempt from the duty to pay the malus. If the employer was not able to re-employ the worker, or if the disabled person could not be employed because of total disability, then the malus still had to be paid. Employers objected strongly to the unfairness of the malus. The penalty applied no matter how the worker became unfit for work, and employers were unwilling to pay a penalty if the reason was associated with the worker's private life. Nor were all employers in a position to offer the worker a job elsewhere in the organisation.

Now employers are being made to carry the risks of employees becoming sick. They are held responsible for costs of sickness benefits and for the costs and implementation of sick leave counselling and inspection for the first year of sickness (increased in 1996 from two (small companies) or six weeks). As it is no longer possible to take out insurance with public insurance boards to cover the risk of payments supplementary to the statutory sickness benefit, the employer may choose to seek private insurance cover; premiums will be set according to the employer's safety record and prevention policy. A further round of reforms will extend market economy principles to disability insurance. Under the so-called 'Pemba' proposals, expected to be introduced on 1 January 1998, the financing structures will change, introducing financial incentives for employers to adopt prevention and reintegration policies. Under the new arrangements, employers will contribute to the disability insurance fund and contributions will be differentiated, depending on the number of employees assessed as fully or partially disabled. Employers will have the choice of insuring this risk for five years through a private insurance company or deciding to pay the disability benefit themselves.

An unintended consequence of these changes is 'risk selection' by employers in recruitment, through

pre-employment medicals (Willems, 1995). Recent research findings indicate that companies are increasingly basing their decisions on health or (assumed) risk of absence when recruiting or laying off staff (Andriessen et al., 1995).

Since January 1994, employers are required to map out the risks to the safety, health and well-being of workers in their employment, and to adopt measures to eliminate or reduce danger. Working conditions policies aimed at preventing sick leave must be based on a complete inventory of occupational hazards and an evaluation of those hazards by a occupational health and safety service, which the employer must use.

OPEN EMPLOYMENT: FINANCIAL MEASURES

Financial incentives are a comparatively recent innovation in the Netherlands, with the exception of wage dispensation regulations which predate the 1986 WAGW. Measures to stimulate demand for low productive labour have included regulation to exempt certain sectors from the Minimum Wage Act for specified periods. However, few employers apply because most are bound by wages stipulated by collective agreements which often far exceed minimum wages.

Now there are several financial measures aimed at the integration and retention of disabled workers. Measures are directed at employers as well as at disabled workers.

Wage dispensation

The WAGW specifies that a disabled employee is entitled to the same wages as a non-disabled worker with a comparable job and the same working hours. However, the employer may get permission from the Industrial Insurance Board to pay lower wages if the disabled employee's productivity is much less than usual. In 1995, the estimated number of permissions granted was 540 (540 in 1993, and 480 in 1994). The total number of people working with dispensation is higher, because dispensation can be given for more years. In 1993, for example, there were 850 running dispensations (De Vos, 1996).

Relief of obligation to supplement sickness benefit

If persons who have been declared partially unfit for work do return to work, but fall ill, their sickness benefit is increased to 100 per cent of the salary which they would otherwise receive. This means that the employer no longer has to supplement the sickness benefit previously set at 70 per cent. This is only for employers in the market-sector and only for new employers. Numbers granted were 230 in 1994 and 420 in 1995 (De Vos, 1996).

Wage-cost subsidy

All employers in the market-sector who take on a person who has been declared unfit for work can apply for wage-cost subsidy under the TAV. This amounts to a maximum of 20 per cent of the salary and can be paid for no longer than four years. The subsidy is granted by the IIB.

Table N.3 Number and cost of wage-cost subsidies

Year	Number granted	Total NLG
1994	3,135	21,767,000
1995	2,661	23,304,000

Source: De Vos, 1996

Supervision subsidy

In addition to the wage-cost subsidy, the TAV introduced a supervision subsidy for employers in the market-sector, granted by the IIB, of a maximum of NLG 4,000. This is only awarded if it is evident that extra time and effort would be necessary to integrate a potential candidate (declared unfit for work) into the workplace.

Table N.4 Number and cost of supervision subsidies

Year	Number granted	Total NLG
1994	2,179	7,060,000
1995	1,753	5,570,000

Source: De Vos, 1996

Subsidies for workplace improvements

The AAW (article 57a) provides the financial means for employers to recover the costs of adapting the workplace to the needs of employees as required by article 2 of the WAGW. The Industrial Insurance Boards decide on the adaptations needed. In 1994 and 1995, 730 and 660 grants were made (De Vos, 1996).

In most cases employers do not avail themselves of schemes to fund aids and adaptations in the workplace, such as under the AAW or WAGW, although it has been found that few employers have objections to such installations (Timmermans and Schoemakers-Salkinoja, 1996).

The AAW (article 57) provides the financial means for employees to recover from the IIB the costs of special measures for adapting the work to their needs. These adaptations are not bound to one workplace and can be taken elsewhere. Examples include financial means for transport to and from work, special shoes, and education costs.

Table N.5 Grants paid to employees by IIB

Year	Number	Total NLG for education	total NLG not including education
1994	4,900	1,100	3,800
1995	660	7,000	2,500

Source: De Vos, 1996

As AAW 57 and 57a grants may be given for more years, the total workers with special measures is higher

(numbers are unknown).

Personal assistance

In February 1994 an allowance for personal assistance on the job was introduced. It applies to those who can work in mainstream employment only if some personal assistance is provided. The employer may receive a compensation for 15 per cent of the hours worked by the disabled person. Some job coaching experiments, for people with mental disabilities, have made use of this allowance (Krug, 1995).

In 1995 there was personal assistance for 0.01 per cent of the total working population in the private sector (De Vos, 1996).

Effects of financial measures

Research has found that these measures have had very little effect, especially the labour cost subsidies and relief of the obligation to pay 70 per cent of wages if the worker falls ill (article 29b of ZW). Subsidies are temporary and may be insufficient to overcome employers' reluctance to hire less productive workers (den Uijl et al., 1996). Employers rarely claim compensation for education and work adaptation costs.

According to Krug (1996) evaluation has shown that employers are more willing to reintegrate their own employees who become disabled than to take on new disabled workers.

Lack of awareness among employees and among employers, who must apply, reluctance to accept there is a need, red-tape and frequent changes in fragmented legislation have been contributory factors (den Uijl et al., 1996). The main obstacle is found to be 'risk selection' among employers who prefer healthy employees as opposed to those at risk of dropping out because of ill health. The risk outweighs the positive benefits of wage subsidies and other financial compensations (den Uijl et al., 1996).

Current proposals

To counter risk selection, the government proposes to extend the reintegration measures - wage supplements, labour cost subsidies, trial employment and the guarantee regulation for older workers. The government intends to add a premium reduction for chronically ill employees, to evaluate how far risk selection occurs, introduce an information centre for recruitment and selection, counselling and expertise promotion and to combine the reintegration proposals in a Reintegration Act currently in preparation and planned to be before Parliament in mid 1997, with enactment in January 1998.

Financial support to disabled employees

An employee who is not fully productive may receive a partial wage and partial benefit. The combination usually amounts to about 85 per cent of the minimum wage. Since February 1994, the additional benefit has been set at a higher level where the disabled employee would otherwise qualify for sheltered employment. In this case, partial wage and partial benefit add up to 100 per cent of the minimum wage (Krug, 1995).

There are several possibilities to keep benefits in the short-term when starting work or education. As an incentive to find and keep work, a disabled person may retain the benefit in place of a wage.

Regulations aimed specifically at removing obstacles for the disabled worker are wage supplements (article 60 WAO) and a guarantee regulation for older workers (article 61 WAO).

Self-employment

There is no state provision to assist disabled people to set up as self-employed. However, disabled people can profit from provision for the unemployed. Help to set up as self-employed has been promoted by some private initiatives providing vocational guidance and support, notably the AVO, described by Seyfried and Lambert (1989) as specialising in aid towards self-employment, which receives a state subsidy (EC, 1988).

There is financial support to aid self-employed people to stay in self-employment on becoming disabled.

MEASURES TO LIMIT DISABILITY BENEFITS

A further strand of policy has been control of eligibility for disability benefits. In the Netherlands compensation for loss of earning capacity due to long-term impairments is provided by a two-tier disability insurance programme. The first tier is universal with eligibility based on citizenship. These flat rate means-tested benefits target those disabled at birth or in childhood (that is, before the age of 18 years) and those disabled before the age of 28 years and without previous employment. They also cover self-employed people. Wage-earners are obliged to participate in the scheme for second-tier benefits. There is no contribution years requirement but in 1993 a system of age-related supplements was introduced.

Until 1987, the law prescribed that benefit adjudicators should take account of limited labour market opportunities. Generous interpretation of this labour market consideration had led to full benefits being awarded to most who passed the threshold of 15 per cent reduction in earnings capacity. However, as abolition of this provision did not halt the growth in beneficiaries further amendments were introduced between 1992 and 1994. A major change was award of benefit for a standard period of five years after which disability is reassesses. At the end of 1995, 75 per cent of current beneficiaries still had an award based on full disability.

Since August 1993, when disability was more strictly defined, reviews of existing beneficiaries younger than 50 have led to termination or reclassification. In 1994 and 1995, 91,500 beneficiaries younger than 40 were reviewed: 29 per cent had their benefits terminated and 16 per cent had their benefits reduced through reclassification in a lower category (Aarts et al., 1996). In 1994 and in 1995 the private employees disability insurance beneficiary population fell by two per cent and six per cent respectively (ibid). However, application of the new criteria for fitness for work is believed to have resulted in increased claims for unemployment benefit (Gründemann, 1995).

SHELTERED EMPLOYMENT

Sheltered employment is termed 'social employment' in the Netherlands. Its history can be traced back to the 19th century, when private organisations ran specialised work institutions for disabled people and some work was in the hands of local authorities, as 'poor relief'.. Involvement of central government stems from a report of a State Committee, published in 1938 (Krug, 1996). From the late 1950s, provision for white collar unemployed people merged with existing sheltered workshops for disabled people, under a scheme of subsidy from central to municipal authorities. With this financial support, social employment grew quickly from about 50 to about 100 workshops with 25,000 employees by the time the 1969 Sheltered Employment Act (WSW) came into effect. Continued financial support meant continued growth, to 350 workshops and

82,000 employees in 1984. In view of the cost, the government imposed various ad hoc control measures and the number of employees dropped temporarily by two or three thousand. A new budgeting system introduced in 1989 decreased costs to central government. In mid 1996, 87,000 (out of a labour force of 6.7 million) were employed in around 250 workshops.

A radical restructuring of central-local relations has been taking place experimentally since 1989. Originally meant to last four to six years, it continued into 1997, to be followed by a new law likely to supersede the WSW in January 1998. Proposals for the new law were introduced in June 1996 and were before Parliament at the end of 1996. Details to be decided during 1997 will be put into effect by Orders in Council. Government believes that the law has to be substantially revised because of changed ideas about the meaning of sheltered employment, changes in government relations and the wish to relate the system of sheltered employment with other instruments in the labour integration programmes. With a new law, the Minister also expects to solve the problem of the constant growth of the waiting list for placement in sheltered employment. From 1988 to 1995, the waiting list grew from 8,300 to 21,900 (Krug, 1996). Offering a framework for employment of persons with a handicap and laying down responsibilities with the municipalities will continue to be the official aim of the law.

The account below reviews the current situation, describes recent policy changes and outlines legislative proposals as at December 1996.

Aims and target group

The Sheltered Employment Act (WSW) of 1969 states that 'the local authority will make provisions for people who are able to work but for whom there is not, or not readily, an opportunity to work in normal conditions for predominantly personal reasons, to find paid employment under adjusted conditions in jobs which are aimed as much as possible at the conservation, the restoration or the promotion of their work capacity' (article 7(1)). According to a circular from the Ministry of Social Affairs, 'personal reasons' are consequences of disease or accident; consequences of congenital physical and/or intellectual impairments; or difficulties with adapting due to physical, mental or social reasons, whether or not they are related to age, character or life events. People can also fall within the scope of the act on the grounds of being socially maladjusted. The word 'predominantly' allows the social employment organisations some room to take on unemployed people to relieve the pressure on the labour market (Samoy, 1992; Klosse, 1995).

Until 1992, employees were assigned to one of two categories based on their aptitude for work: category A for those who, in an adapted working situation, could work normally and whose productivity level was at least one-third of what could reasonably be expected from a non-disabled worker; and category B, for those who could not reach a pre-established level of production but whose well-being was dependent on the availability of properly adapted employment. The imprecision of the definitions, and the way in which they are applied, prompted some authors to call social employment provision a 'receptacle', the contents of which vary depending on developments in the labour market (Samoy, 1992).

Now both categories are integrated. Former category B workers, who previously were paid at levels below the minimum wage, supplemented by a benefit, now fit into an integrated salary system. A five-part classification is based on type of disability: physical; light mental; moderate mental; psychiatric; and not medically classifiable.

The new Act proposes a narrower definition of the target group: work opportunities will be offered only to those who, as a result of physical, mental or psychiatric impairments are able to work only under adjusted conditions. Thus, opportunities will be limited for unemployed people described as socially disadvantaged (represented in the current fifth type). The proposed criteria for defining ability to work will also limit the

target group. Social employment organisations have expressed concerns about the impact of the proposed narrowing of the target group on their viability.

Currently, a potential employee must be registered as a job-seeker with the regional Job Centre, which must complete a certificate to say that, in the near future, the person concerned cannot be placed in the open labour market or is unable to follow suitable training. The municipality is responsible for deciding where to place the candidate, based on advice from a WSW commission. In many instances there is a waiting list. Often there is a trial period of around two months, or a period of observation in work, of at least four weeks. A person on probation or undergoing a period of observation in work may first be placed in an assessment and training centre, a professional rehabilitation centre, or an in-house training centre before moving on to a production unit (Samoy, 1992).

New rules for taking on workers were introduced by the government in 1993 to prevent employees being disadvantaged by the new system of budget allocation (see below). Placement from the waiting list now has to be on a 'first come, first served' basis according to year cohorts. However, in any year an organisation may ignore this principle in up to 25 per cent of placements, if the need is urgent or a vacancy must be filled. Placements must also reflect proportionately the different impairment categories on the waiting list. Employees on the lower productivity ranges can be dismissed only if an alternative placement exists, normally at a day centre. However, day centres also have long waiting lists.

A new independent system is proposed for determining who belongs to the target group. A State Indication Service, under the responsibility of the Ministry of Social Affairs and Employment, is proposed. The municipality will install an advisory committee consisting of experts on labour, the labour market, and medical and psychological aspects. Municipal officials will not be allowed to take part in the decision making but will advise on whether a candidate is a member of the target group, if this person will work in sheltered or supported employment and to which category the person belongs: light, moderate or severely handicapped. The State Indication Service will test the procedure that is followed and the decision that has been made, and produce a decree for indication for each candidate.

If the candidate is not found eligible for sheltered or for supported employment, the person will be referred to the municipality, responsible for other forms of subsidised, additional labour market programmes, or to the regional Job Centre for regular labour mediation, or to a day care institution.

It is proposed to review eligibility of future employees after two years of employment.

The sheltered employment contract will not be continued when the employee is not co-operative or when the person involved no longer is a member of the target group. In the latter case, dismissal will take effect as soon as there is alternative day care available, or as soon as the person refuses an offer of suitable work on the regular labour market.

Labour market integration programmes will be streamlined from 1998 into the proposed Involvement of the Unemployed Act (WIW). This will create a common framework for the various types of subsidised unemployment for disabled people, long-term unemployed and unemployed young people at local level. Working hours and pay will be harmonised.

Organisation

During recent years, the number of sheltered employment organisations has reduced as a result of the formation of new and larger local government administrative territories and the amalgamation of organisations. At the end of 1996, there were 101 sheltered employment organisations, working on a local or regional scale. They operate about 250 workshops.

There are various models of organisation. There are two forms of public organisation: large local authorities implement the act independently; and a number of local authorities combine to implement the WSW. About 14 of the 101 organisations are governed by only one municipality, in some cases executing the WSW for other neighbouring municipalities as well. The remaining organisations are governed by a group of municipalities.

In only a few of these sheltered employment organisations the legal form is private. Some are foundations and, since 1995, also two are limited liability companies. In all these cases, however, the local government is represented on the board of the enterprises.

Each social employment organisation is required to structure itself as far as possible as a production unit. The management group and staff are local government employees. Some 7,750 employees with a civil servant status are employed in managerial and staff functions. The employees have an employment contract under WSW. In the 101 organisations, in mid 1996, a total of 87,000 persons were employed on a WSW status. They represented 81,500 full-time equivalents (38 hours a week).

Labour conditions

The legal status of the SW employee and the terms of employment are laid down in central government regulations. While the WSW is implemented by local authorities, the costs are mostly carried by the state. Workers are employed and paid by the municipalities. Jobs are graded and employees are paid according to the job, not according to their productivity. There are nine different wage scales, the lowest at the level of the statutory minimum wage. Employees are insured against the risks of unemployment, sickness and disablement. Previously, a large percentage of employees (42.2 per cent in 1988) received an invalidity benefit on top of the salary, but because of the recent re-assessments of invalidity severity and invalidity benefit rights, at the moment it is not known how many SW employees receive an invalidity benefit on top of their salary. The contract is a special labour contract beyond the sphere of labour law.

The normal working week from 1997 is 36 hours, reduced from 38. Part-time work is possible for medical or personal reasons.

The salary arrangement proposed in the new law is a minimum wage level for new employees for the first two years (to promote transition outside sheltered employment). After re-indication and if the employee is considered as target group member, a function-related wage will be granted, independent of productivity, as now. Maximum working hours are to be 32, remaining after two years of employment. When the bill is enacted, the labour contract will be ruled by civil law and collective bargaining will then take place between the trades unions and the union of Dutch Municipalities.

Criticism of the proposals from the field focus on the differentiated labour status and the reduced working week. A salary based on the minimum wage and a 32 hour week is unlikely to attract a disabled person in receipt of disability benefit. Productivity and revenues are expected to suffer.

Activities

There has been a graduate shift from industrial to service organisations, and in connection with this, a shift from internal placement to external placements.

Each of the social employment organisations provides one or more of the following work units:

- industrial work unit (electronic, metal work, packaging, assembly work (e.g. bicycles, furniture))
- administrative work unit (printing, copying, data entry, brochures, magazines, mailings)
- cultural and civil-technical work unit (maintenance of parks, public gardens, cultivating plants and flowers, building/construction work, painting, road mending)
- service units (catering, security, cleaning).

Roughly half the employees are engaged in industrial work units, about 30 per cent in park maintenance and public works and about 14 per cent in administration and printing.

A number of external jobs are offered by the sheltered workshops. Formally, the employees remain members of the workshops but the organisations which hire the disabled workers are responsible for expert guidance and support. These jobs occur more in the public sector. At the end of 1984, 13 per cent of sheltered workshop employees were engaged in external jobs. In 1991 the proportion was 12.1 per cent, rising to 13.2 per cent in 1995.

Table N.6 shows the types of internal and external placements at the end of 1995. Most social employment organisations have test and training centres where potential employees, or employees requiring a change of job, can be observed, tested and guided, with the purpose of finding them a suitable position within or outside the sheltered employment organisation. Under the proposed new law, where assessment is undertaken as a part of the indication procedure future testing facilities are expected to become independent of the sheltered employment organisation.

Recently, training and rehabilitation provisions are offered more frequently to other labour integration programmes. Other parts of the sheltered employment organisations facilitate these local/regional programmes by offering testing and training facilities, intake, assessment, apprenticeships, job opportunities and integration instruments.

Table N.6 Activities organised by sheltered workshops at end 1995, in full-time equivalents

	Internally placed	Externally placed	Total	%
A metal working and electro(techn)ics	11,685	122,000	11,807	14.5
B wood working and wood mounting	3,408	64,000	3,472	4.3
C textile, confection, packaging	16,984	231,000	17,215	21.2
D printing	3,507	327,000	3,834	4.7
E administrative	1,973	2,257	4,230	5.2
F civil engineering work (building etc) cultivation (gardening)	19,761	1,677	21,438	26.4
G nursery (plants, trees)	2,312	66,000	2,378	2.9
H non-yielding activities	46,000	255,000	301,000	0.4
I internal placements	6,922	-	6,922	8.5
J remaining activities	3,854	5,717	9,571	11.8
Total	70,545 (86.8%)	10,714 (13.2%)	81,168	100.0

Source: *Statistical Year Report 1995, Ministry of Social Affairs and Employment*

Employees

Information about people in social employment comes from the 1995 year statistics of the Ministry of Social Affairs and Employment.

On 31 December 1995 there were 85,576 employees, 80 per cent of whom were men and 20 per cent of whom were women. A breakdown by age is given in Table N.7.

Table N.7 Employees in sheltered workshops, by age, 1995

Age	Number	%
15-24	4,079	5
25-34	20,363	24
35-44	27,135	31
45-54	24,667	28
55-64	10,333	12

The distribution of age may be compared with 1988 data cited by Samoy (1992). The number under age 25 decreased from ten per cent to five per cent of the total, while the proportion aged 55 and over remained similar. The population within the middle three bands has aged since 1988.

Employees are classified according to their impairment.

Table N.8 Employees in sheltered workshops, by impairment, 1995

Impairment		Number	%
Physically impaired	(code 1)	37,509	44
Light mentally impaired	(code 2a)	24,941	29
Moderate mentally impaired	(code 2b)	3,303	4
Psychiatrically impaired	(code 3)	14,519	17
Not medically classifiable	(code 4)	6,304	7

This new categorisation, which has applied since 1992, is broadly comparable with Samoy's classification into four categories of medical origin data from 1988. He found 43 per cent physically disabled, 31 per cent mentally handicapped; 16 per cent mentally ill; and ten per cent non-classifiable.

Financial arrangements

Central elements in the restructuring of the relations between the central government, the municipal authorities and the social employment companies were the introduction of a new system of budget allocation and an enlarged municipal responsibility for those companies. Legislation prescribing the organisation of companies was repealed in 1989. Supervision by the central government was scaled down to the bare essentials.

New system of budget allocation

Krug (1990; 1995; and 1996) gives an official account of the changes implemented to curb the growing costs of social employment. Previously there were two financial elements. All wage costs of the employees were compensated by the central government. Secondly, all additional costs that remained when the net results of the productive activities were taken into account were shared by the central government and the local authorities, the government paying 80 per cent and the municipality 20 per cent. The intention of the new system of budget allocation was to make the costs of sheltered employment for the central government controllable, to guarantee to local authorities the budget available before the start of a budget year and to give incentives for efficient management at the local level.

Under the new system, for each year a company receives a fixed budget from the central government. This budget is determined on the basis of a standard compensation for every full-time job. In addition, the budget of companies may be increased with a financial incentive. The standard compensation for every full-time job is determined by dividing the available overall budget by the number of existing jobs in the country. For every company this standard compensation is adjusted if necessary, according to regional economic differences, organisational differences or employee characteristics. The standard compensation for a company is lowered if the population of a company is relatively young or if the number of physically handicapped employees is more than average, for example. Regional economic and organisational factors have shown by Ministry of Social Affairs and Employment research to have little effect on cost differences.

The number of jobs for which compensation is given is the number of existing jobs, minus the estimated outflow of employees during the budget year, plus a fixed part of the waiting list. This part is calculated by dividing the estimated outflow for the whole country by the total number of people on the waiting lists. As a result, all applicants placed on a waiting list have an equal chance of a job. Companies with long waiting lists receive more money, and companies without waiting lists receive less. The third element in the budget allocation mechanism is the incentive; that is, a temporary supplement to encourage particular goals, such as transition to open employment (see below).

When a company is more efficient than average, or has very high yields from the sales of its products, the budget surplus may be used for the creation of new jobs or for extra investments. The new jobs are taken into account when the number of jobs is determined for which government compensation will be given in a future budget year. Since the central government's budget for social employment is fixed, a rise in the overall number of jobs causes the amount of the standard compensation per job to diminish. Social employment companies are thus forcing each other to become more efficient.

Effects

The effect of this efficiency drive, from the government's standpoint, is said to have been 'remarkable' (Krug, 1995). At the start of the experiment, net yields amounted to NLG 767 million. They grew to NLG 1,139 million in 1993. In the same period, the number of disabled employees grew from 78,000 in 1988 to nearly 86,000 by the end of 1993, without a rise in government budget other than to compensate for the agreed rises in level of wages. Even some cuts in government funding were possible without loss of jobs (Krug, 1996).

However, the system has had negative financial effects on the sheltered work organisations and on the municipalities. Increasingly, organisations are entering deficit situations: half in 1993 and 80 per cent in 1995. The new system has meant a constant lowering of the subsidy. The limited opportunities since 1989 to create reserves exacerbated their difficulties. The contribution by the municipalities has increased from NLG 743 per full-time equivalent in 1991 to NLG 1,200 in 1995.

The efficiency drive has affected the organisation of sheltered work in a number of ways. Generally, organisations have shifted from care organisations to become more market-orientated and businesslike. Staff-employee ratios have declined, with employees taking on some lower management functions. Production processes have become more mechanised and non-profitable departments have closed. Labour intensive, rather than capital intensive, industries have grown, and there is more emphasis on external placements. There has been more emphasis on education and training. Many organisations have restructured or amalgamated, and there has been more co-operation with other workshops and with private partners (NOSW, personal communication).

The consequence for disabled people has been reduced opportunity to work under adapted conditions as a means of rehabilitation and social independence (Klosse, 1995). Klosse notes that 'in recent years the number of category B employees has decreased by 40 per cent'. The need is met in part by municipal projects, such as supported employment schemes, to help people with a serious disability to find a job on the open labour market.

To prevent the system from disadvantaging employees, the government introduced obligations on organisations to assess for each employee yearly the suitability of workplace adjustments according to the capacities and wishes of the employee, and to assess whether the employee is most appropriately placed.

Under the proposed new law, the principle of budget financing will be maintained. The most important change, however, is that the degree of labour handicap (light, moderate, heavy) will affect the yearly subsidy amount. For each of the three categories a different amount will be defined. The amount will be independent of wage costs, organisation costs (support, investments) and the expected production output and revenues per employee. The government's aim is to counter the tendency to take on more productive, less disabled employees.

The response of NOSW and the joint municipalities is that the proposed system will increase social employment organisations' budgetary difficulties. They advocate a more equal division of responsibility between central and local government.

Transition to open employment

Stimulating workers who have regained their ability to work in the open labour market to leave sheltered employment and accept a regular job is articulated as an aim of sheltered employment policy. However, the number of employees leaving sheltered employment for regular employment has dwindled over the years. In 1972, out of 44,000 employees about 1,900 left sheltered employment for this reason. In 1977, while the population had grown to 67,000, the number of employees that accepted a regular job declined to 960. In 1988, the number of employees was 78,000 and only 300 left for regular employment (Krug, 1990). Currently, transition rates average less than 0.5 per cent a year.

Krug (1990) identified a number of historical explanations: wages in social employment are comparable to those in many branches of industry; high unemployment in the late 1970s and early 1980s encouraged employers to recruit people other than those with a 'history' of social employment; social employment organisations ceased to formulate transition policies as a consequence of that recession; and organisations were reluctant to meet the costs of replacing key employees who leave. Samoy (1992) adds the point that

companies are fearful of introducing larger numbers of 'weaker', less productive people, if the more productive leave.

In 1990, the government initiated a policy to stimulate transition. A first step was to proclaim transition to regular employment as one of the operational goals for the municipal authorities responsible for the enactment of the Sheltered Employment Act. The level of transitions to be reached was first put at one per cent of the sheltered population per year. After testing out some models, including a temporary lump-sum subsidy for every employee who made the transition, the government introduced a dual incentive and penalty system. There is a financial incentive for exceeding a one per cent rate, which rises when 1.5 per cent is exceeded. But when the one per cent is not reached there is a penalty payable for every transition not made. According to the organisations, after the first years of this policy there is not much 'transition material' left, either in organisations or on the waiting list.

Organisations have been encouraged to view 'external jobs' as a means to transition, given research findings that showed that in the years 1981 to 1988 transition was highest amongst employees placed at local government agencies and non-profit organisations. Organisations are expected to develop rehabilitation programmes that explicitly work towards a transition by means of a combination of counselling, training, external placements with regular employers and an active assistance in job search.

The costs for additional training and guidance can be covered from several sources. One possibility is use of the 'Scheme for the integration of long-term unemployed into the labour market'.. In this scheme employees from social employment companies are treated on the same footing as long-term unemployed. In this and other strategies, the policy is to ensure that those employees are included in provision aimed at all disabled workers.

In addition, the possibility of temporary contracts with social employment companies was introduced. In late 1996, some 700 employees had such contracts. Employees are often given a free choice between a temporary and an indefinite contract. It is most often applied to people who can be expected to reintegrate into the regular labour market after two years. Because of the small number of job and contract changes each year, this measure can apply only to new employees.

The employee is guaranteed the possibility of returning to his job at the company within a year, if the transition to a regular job is not successful. If the new employer does not want to continue his contract, or if the employee considers the new job above his capabilities, the employee may return to the company without being placed on a waiting list, like new applicants. In practice, the return guarantee is seldom used and it enhances the confidence of the employee considerably (Krug, 1990).

As Krug (1996) admits, policies to stimulate transition have not so far been successful. Factors that make it very difficult to realise enough transitions are, inter alia: internal production targets; the situation on the local or regional labour market; state policies on sickness benefit that makes employers reluctant to employ disabled persons; and the salary and labour conditions in sheltered employment compared to the regular labour market. Results of a NOSW Horizon project (European Initiative for Sheltered Employment (EISW) 1992-1994) showed that the organisations need a much more integrated way of working in promoting transition. Such a policy incorporates joint awareness of the possibilities and importance, with all parties involved, acquisition activities, schooling and training.

In the new law, the target group is expected to consist only of persons who, as a result of physical, mental or psychiatric impairments, are able to work only under adjusted conditions and in work environments which cannot be realised in regular companies. So it is to be expected that, in the future, sheltered employment will have a less integrative function.

SUMMARY

Historically, policy for disabled people in the Netherlands has been characterised by protective welfare-based services and institutionally-based provision, specialised according to type of disability. Disabled people leaving special education have tended to enter the large social (sheltered) employment sector. Very few people with learning disabilities are in open employment and long-term mentally ill people are under-represented.

Since the 1980s, policies to promote employment of partially disabled people have been driven by political and public concern over high sickness absence rates and increasing numbers receiving disability benefits. A series of radical reforms to the social security system have been accompanied by new obligations on, and incentives to, the economic actors to assist the return to work of disability benefit recipients and to prevent workers who become disabled from entering the benefit system. The 1990s have seen a new policy emphasis on individual responsibility and freedom of choice. Moves to make the social security system more selective and market oriented mark a radical shift from the Dutch solidarity principle of collective responsibility.

The Ministry of Social Affairs and Employment is responsible for both labour market policy and income security. The Central Employment Board, on which the employers' federation, the central employees' federation and central government have equal policy-making responsibility, rules over 28 similarly constituted Regional Employment Boards which, in turn, operate the Employment Service (ES). The ES concentrates on vocational guidance and training, brokerage and placement and other assistance to unemployed jobseekers. From 1998, the ES will have total responsibility for services to partially disabled workers. The municipalities have administrative responsibility for directly subsidised job creation schemes, including sheltered workshops and supported employment schemes.

The employee disability insurance scheme (and other employee insurance schemes) is run (until March 1997) by 18 bi-partite Industrial Insurance Boards (IIB), each established for a specific branch of industry. Accountability for delivery of benefits is to be transferred to the GAK and the other, smaller, administrative organisations (AdOs). The AdOs assess capacity for work, the level of disability benefit and opportunities for employment. They also aim to reduce obstacles to the disabled person's chance of work and to support the person in the process of finding a job.

The 1986 Handicapped Workers Employment Act (WAGW) placed an obligation on employers, employers' organisations and workers' organisations, in public and private sectors, to facilitate the employment of recipients of disability benefits. The WAGW abandoned the registration requirement introduced in 1947. Coverage of the law was also extended to those disabled employees for whom special provisions had been made, or needed to be made, to enable them to carry out their work. The aim was to achieve a quota of between three per cent and five per cent within three years, by voluntary effort. The quota was not reached and, in the face of employer opposition, was not legally imposed.

The 1990s have brought considerable legislative change.

The Reduction of the Number of Benefit Claimants Act 1992 (TAV) aimed to stimulate employers and employees to prevent sick leave and to keep partially disabled people at work, or ensure their return to work. It introduced variation in employers' contributions to sickness benefit insurance according to the firm's sickness absence rates.

The Act to Restrict Claims on Disablement Benefit 1993 (TBA) included a stricter assessment of disability, time-limited and age-related payments, and compulsory re-examination of recipients under the age of 50.

The Reduction of Sickness Absence Act 1994 required the employer to pay at least 70 per cent of the salary for the first weeks if a worker is absent through sickness or incapacity, to take responsibility for counselling aimed at encouraging the sick employee back to work, and to contract with private providers of occupational health services. This was followed in January

1996 by the extension of employer responsibility for coverage of sick pay to a maximum of 52 weeks. However, also in 1996, the wage payment obligation was lifted in the case of sickness of partially disabled employees within the first four years of their employment.

The Amendment to the Labour Conditions Act in 1994 stipulated that all employers must pursue a labour conditions policy which aims to prevent absence through sickness and must use private occupational safety and health services.

These Acts also introduced a range of financial incentives to disabled workers and to employers to supplement earnings or subsidise wage costs and to help with costs of adaptations, supervision, personal assistance and training. These operate on a small scale only. Measures for vocational rehabilitation such as training, adaptations and employer subsidies are mainly funded within the framework of the insurance funds but the proportion of expenditure devoted to these measures is very small. Under consideration are proposals for a uniform rehabilitation fund, fed through transfer from the social insurance funds, and for more effective allocation procedures. A new Reintegration Act is planned to include further incentives to employers and employees.

A further round of reforms will extend market economy principles to disability insurance. Under the so-called 'Pemba' proposals, expected to be introduced on 1 January 1998, the financing structures will change, introducing financial incentives for employers to adopt prevention and reintegration policies. Under the new arrangements, employers will contribute to the disability insurance fund and contributions will be differentiated, depending on the number of employees assessed as fully or partially disabled. Employers will have the choice of insuring this risk for five years through a private insurance company or deciding to pay the disability benefit themselves.

Social (sheltered) employment has been a major plank of central government policy for employment of disabled people since the 1950s. Growth continued under the Sheltered Employment Act of 1969. In 1984, when there were 82,000 employees in 350 workshops the government decided that growing costs could no longer be supported and a radical restructuring of financial and administrative relationships between central government, local authorities and the sheltered work companies has been taking place experimentally since 1989. A new system of budget allocation has increased the number of employees without a rise in the government budget but has had negative financial effects on sheltered work organisations and on municipalities, leading to more market-oriented workshops and more mechanised production processes.

In mid 1996, 87,000 disabled people were employed in around 250 workshops and there was a waiting list of 22,000. Proposals for a new law, expected to take effect from January 1998, restrict the target group to those able to work only under adjusted conditions and in work environments which cannot be realised in mainstream companies, thus limiting opportunities for those described as socially disadvantaged. The proposed new system for determining eligibility will direct ineligible candidates to other labour market programmes or to day care. Under the legislative proposals, a minimum wage for new employees for the first two years is expected to promote transition rates which have fallen to very low levels despite government initiatives. It is expected, however, that in future sheltered employment will have a less integrative function.

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PORTUGAL

POLICY AND INSTITUTIONAL CONTEXT

Disability policy and legislation

Disabled citizens are entitled to the same rights and are subject to the same duties as all citizens, according to article 71 of the Constitution of the Portuguese Republic of 1976. The Constitution stipulates that the State should develop a national policy for prevention, treatment, re-education and integration in relation to disabled people. Moreover, it should act to make society aware of its duties of respect for and solidarity with disabled people, and should ensure that they fully enjoy their rights.

A comprehensive law of 1989 (no. 9/89) defines national policy. It aims to promote and ensure the exercise of those constitutional rights in the fields of disability prevention, treatment, rehabilitation and equalisation of opportunities. It lays out six fundamental principles of policy in all aspects of life affecting disabled people and which guide rehabilitation policy, including the equalisation of opportunities stemming from the elimination of all discrimination in areas including employment. That law was described as sanctioning an innovative conceptual framework, based on more universalistic and humanistic principles (decree law no. 184/92 of 22 August 1992).

The law also lays out the policy aims of the state institutions in health, education, social security, vocational training, employment, transport, housing and public buildings, fiscal arrangements and culture, sport and recreation. The policy intention is to create a connected net of services between Health, Education, Social Security and Employment.

Overall, policy aims to achieve equalisation of opportunities through attention to individual needs, and by eliminating social, cultural and physical barriers to integration.

The impact on Portuguese legislation of the International Year of Disabled People in 1981 and the United Nations World Programme of Action concerning the Disabled was considerable. The major items of legislation, as well as the corresponding organisational structures, have been derived virtually in toto from this source (WHO, 1990). In 1987, 1991 and 1992, Portugal prepared national assessment reports for the United Nations World Programme of Action Concerning Disabled People. It seems from those reports and from government policy statements that Portugal remained keen to ensure that its policy continued to reflect the priorities of the World Programme of Action.

Labour market and employment policy

Unemployment in Portugal increased considerably in 1993 and 1994 but at 7.2 per cent in 1995 (MISEP, 1997) the unemployment rate was one of the lowest in the EU. Unemployment is seen as essentially a problem of quality rather than of quantity, stemming from a mismatch between the skill levels of the labour force and labour demand (Multiannual Employment Programme, 1994-1999). Large numbers of young people leave the school system early without vocational qualifications and most workers have low skill levels. Long-term unemployment is growing. Employment policy has given preference to active employment measures affecting, in particular, the skills and qualifications of the labour force (ibid).

Evolution of disability employment policy and legislation

Portugal was one of the early signatories to ILO Convention 159 (1983) on the Vocational Rehabilitation and Employment of Disabled Persons.

The articulation of policy for the employment of disabled people developed in the early 1980s, with financial incentives to employers introduced by order in 1982 and a law to establish sheltered employment passed in

1983. These measures operated on a limited scale throughout the 1980s.

New statements of policy and regulations for implementing old and new measures began to appear in the late 1980s. The thrust behind the new legislation was to introduce coherence to policy and to standardise its administration, as well as to promote equal opportunities for disabled people. Considerable emphasis was given to the role of non-governmental organisations in putting policy into effect.

Heavy emphasis was placed on the fundamental importance of 'the most rigorous possible assessment and guidance conducted by multidisciplinary teams' (decree law 247/89). Procedures for supporting the guidance, training and placement of disabled people have been formalised according to strict procedural rules. The policy emphasis remains on vocational guidance and specific vocational training, alongside training of specialist staff and use of new technologies to improve training (Multiannual Employment Programme 1994-1999).

The employment law aimed at integrating people into the workforce pertains only to those people who are registered at employment centres and/or undergo assessment.

There are no compulsory employment measures for the integration of disabled people into employment but the two sides of industry in the banking sector have taken the initiative to establish a two per cent quota. The insurance sector has established agreements to give preference to the disabled children of existing and deceased staff (IEFP communication).

Policy-making and implementation

A Resolution of the Council of Ministers in 1988 accepted a 'guiding plan' for prevention, rehabilitation and integration, drawn up by the different public services with non-government organisations, and entrusted the Ministry of Employment and Social Security with ensuring its co-ordination.

This move was followed by a new law of 1989 (decree law no.247/89) which defines the powers of the Institute of Employment and Vocational Training (IEFP) (established in 1979) within that Ministry as the main governmental agency in the field of employment policy. As well as introducing uniformity of criteria, the statute aims to retain private bodies' management responsibilities and to ensure that the voice of disabled people is heard in the execution of each programme. Regulatory Instructions in 1990 (no.99/90) set out the details of procedures for putting into effect the standard framework for granting technical and financial aid to the sponsors of rehabilitation programmes.

IEFP gives assistance to disabled people and to public and private organisations running programmes for pre-vocational education; vocational guidance, training and retraining; employment in the normal labour market, sheltered employment and self-employment. A central Directorate of Rehabilitation Services is charged with policy in the areas of vocational training and employment. Much of its role is around formulation of general policy and new legislation, public education, international relations, research, planning and promotion and co-ordination of public services. It also supervises technical co-ordination between vocational rehabilitation and employment services and implements staff training in the field of social and vocational integration. In addition it supports and promotes those bodies which aim for vocational rehabilitation, including non-governmental organisations (NGOs).

Policy co-ordination

The National Secretariat for Rehabilitation (NSR), which lies within the Ministry of Employment and Social Security, is the body responsible for the co-ordination of cross sectoral policies and since 1977 has been the lead agency in rehabilitation policy. The NSR was restructured by decree (decree law no.184/92 of 22 August 1992). Its duties are:

- to contribute to the definition of national rehabilitation policy for disabled people
- to plan and co-ordinate the activities of bodies active in the disability and rehabilitation fields
- to promote public awareness
- to encourage the development of scientific and technological research
- to develop international co-operation
- to promote and monitor the role of NGOs
- to propose legislative measures to develop and put into effect national rehabilitation policy.

In 1993, a Commission was established with wide-ranging brief to design and implement a plan of action for rehabilitation for the period to the year 2000. Co-ordinated by the NSR, the Commission brings together representatives of government organisations from all sectors responsible under the law for integration of disabled people.

Social partners and disability organisations

The National Council for Rehabilitation, the NSR's advisory body, was reconstituted in 1992. It is made up of 17 members, seven appointed by state departments and the rest representing NGOs, trade unions, employers and other public, private and charitable umbrella groups. It advises on policy, programmes and services.

The social partners also participate in the IEFPP Managing Board and Supervisory Committee at central level. At IEFPP regional level, five regional delegations and regional advisory councils include representatives from trades unions and employers' associations.

In accord with the guidelines of international bodies which aim at the participation of disabled people's organisations, a 'dialogue group' was set up in 1992. The group is composed of representatives of NSR and of 22 national disability organisations.

DEFINITIONS OF DISABILITY

Article 2 of the comprehensive law (9/89) uses the following definition:

a person who, because of a loss or abnormality, congenital or acquired, of psychological, intellectual, physiological or anatomical structure or function susceptible of causing limitations to capacity, may be considered in disadvantageous situations for the fulfilment of activities considered normal, taking into account age, sex and the prevailing socio-cultural factors.

It adds that responses to needs must recognise that disabled people are not a homogeneous group.

With reference to employment, article 3 of a further statute (decree law no.247/89) says 'a disabled person is considered as any individual who, because of limited physical or mental capacity, encounters difficulty in obtaining or holding a job suited to his or her age, qualifications and professional experience'.

STATISTICS

In 1995 the working age population in Portugal was 6,785,900, the labour force was 4,754,300, (an activity rate of 48.3 per cent) and 325,400 were unemployed (MISEP, 1997).

It is estimated that there are some 121,000 persons with mental disabilities, 9,200 with learning difficulties, 5,000 with visual impairments and 12,167 with a motor disability (Employment Operational Programmes).

The 1981 census (latest available data) estimated 402,000 persons, 6.4 per cent of the population between the ages of 15 and 64, permanently unfit for work. In September 1996, there were 384,500 persons drawing the contributory invalidity pension (men under 65 and women under 62 who are victims of a disease or non-occupational accident permanently reducing capacity for work in their normal job, with a reduction of earning power of at least two-thirds) (IEFP communication). In 1988, persons drawing an occupational disease or occupational accident pension numbered 67,500, including a high proportion of persons with a slight disability (Grammenos, 1992); the same number was estimated for 1992 (Grammenos, 1995). No information is available on unemployment among disabled people.

Some information about the employment situation of disabled people is available from a sample of firms with more than 100 employees surveyed in 1994 by the Statistics Department of the Ministry of Employment and Social Security¹. In all, 2,817 disabled people were found to be employed in 594 firms surveyed. The survey found that over half were employed by firms with more than 1,000 workers and 14 per cent worked for firms with between 100 and 199 workers.

EMPLOYMENT SUPPORT SERVICES

Vocational preparation

The Ministry of Education and IEFP are jointly responsible for vocational preparation for young disabled people who are completing their final years of compulsory schooling and for guidance to those over 16. They provide financial and technical assistance to set up workshops and to acquire equipment, and assists with the salaries of trainers. Non-profit bodies (parents' associations and Special Education Co-operatives) and public institutions are the providers.

Table P.1 Number of provider organisations and participants in pre-vocational preparation, 1989-1995

Year	No of organisations	No of participants
1989	63	1535
1990	49	1275
1991	47	1150
1992	43	1021
1993	43	662
1994	30	645
1995	30	672

Source: IEFP communication

The programme is currently under review. In recent years it has concentrated on occupational training. Numbers of participants dropped by over 50 per cent between 1989 and 1995 (Table P.1).

Vocational guidance and assessment

Disabled people are considered fit for programmes for employment in the normal labour market and self-employment if they have been guided to these programmes on the basis of a formal assessment, or if they have successfully completed vocational training.

IEFP provides vocational guidance and assessment of employment possibilities through its local employment services throughout mainland Portugal. It also has two special units within two vocational rehabilitation centres operating at national level.

Public and private non-profit making also provide services as part of their rehabilitation provision.

The only figures available relate to disabled people served in the two IEFP special units. In 1995 the number served stood at 300. Numbers have fallen each year from 560 in 1991.

Vocational training

Vocational training is seen as a fundamental essential stage for successful integration as one of the factors responsible for a high percentage of unemployment among disabled people is low levels of professional qualifications.

IEPR grants assistance to schemes to equip disabled people of at least 16 years of age with the skills needed to obtain a professional qualification which will allow them to obtain and hold a job and to progress professionally in the normal labour market. Help for running costs may cover expenses of recruitment and guidance of trainees, subsistence, remuneration and insurance of trainees, remuneration of trainers and other staff and training of teaching and non-teaching technical staff. Similar financial assistance is available when vocational training is carried out by companies at their own facilities. Interest-free loans are also available.

IEFP contracts with external private and non-profit making organisations for the running of specific vocational rehabilitation schemes. From 1985, it has managed jointly with external organisations vocational rehabilitation centres for guidance, training, retraining and research to meet ongoing needs. It also has a small number of its own directly managed centres.

The number of independent centres providing vocational training doubled between 1989 and 1995. Overall, the number of disabled participants increased from 1,195 in 1989 to 5,569 in 1995. Disabled people trained in directly managed centres increased significantly in that period, although their proportion of the whole remains low (Table P.2).

Table P.2 Vocational training centres and participants, 1989 - 1995

Year	Directly managed centres		Jointly managed centres					
	Centres	People	Centres	People	Centres	People	Centres	People
1989	1	105	1	113	50	1977	52	2195
1990	3	175	2	193	68	2891	73	3259
1991	1	128	2	244	77	3311	80	3683
1992	3	193	2	340	90	3947	95	4480
1993	4	202	2	372	99	4807	105	5381
1994	3	210	2	251	95	4813	100	5274
1995	2	498	2	245	99	4826	103	5569

Source: IEFP communication

A report from IEFP referring to the situation in 1991 mentions Community Bases and Integrated Programmes of Training and Employment which served 500 disabled people in four integrated programmes. These programmes pay special attention to the needs of blind, deaf and mentally disabled people. The aim is to use

ordinary education/training structures to promote involvement of the community and to use integrated training methods such as on-the-job training and sandwich courses ('The rehabilitation area within IEFPP').

Placement

No information has been made available on placement activities. The survey of firms with over 100 employees by the Statistics Department of the Ministry of Employment and Social Security, noted above, found that the Employment Centres of the Ministry placed three per cent of the 2,819 disabled workers identified in the survey.

The need to invest in staff who carry out vocational training and placement measures has long been recognised. The contribution to the Council of Europe (1990) report dating from September 1988 commented that so far, IEFPP's 'operational capacity has proved inadequate as regards both the placement of disabled people and the promotion of ... policy measures' (p.225). At that time only three out of 58 Job Centres had a vocational guidance counsellor, industrial doctor and placement officer specialising in the reception of disabled people.

A 1992 National Assessment Report for the United Nations Decade of Disabled Persons suggested that increasing the level of training of staff across the country remained a challenge for the next decade. IEFPP reports that over the years from 1989 to 1995 a total of 739 technicians (270 in 1995) received training through IEFPP's Directorate of Rehabilitation Services.

OPEN EMPLOYMENT: LEGAL OBLIGATIONS AND RIGHTS

There is no compulsory employment, such as a quota system, in Portugal.

Dismissal

The Portuguese law does not permit dismissal without just cause; disability does not constitute a reason for dismissal. According to current legislation (decree law no.64 A/89 of 1989) reasons for dismissal are limited to expiry of contract, behaviour on the part of the worker which prevents maintenance of a working relationship, and redundancy for economic reasons. There is no special protection against dismissal of disabled people.

The Portuguese disability organisation, APD reported in 1993 that the main problem facing disabled people is legislation which allows dismissal and compulsory retirement and does not defend the maintenance of disabled people's jobs (personal communication).

Recruitment

Firms employing a staff of at least 20 are obliged to give priority as regards recruitment to persons permanently incapacitated as a result of accidents occurring in their service, given activities compatible with their disability.

PERSUASION POLICIES

A sub-programme for the economic and social integration includes information and awareness-enhancement measures directed at potential employees and other agencies in the rehabilitation process (Multiannual Employment Programme, 1994-1999).

In Porto, there is an example of an employers' club founded jointly by a vocational training institute and the Porto Industrial Association. The club was set up to support employers who recruit disabled people on a contractual basis (HELIOS EIA 1995 Annual Reports 'Integration').

Merit prize

In the three years from 1990 to 1992, certificates of merit and plaques of honour were awarded to employing bodies which distinguished themselves in hiring disabled workers. In reaching decisions the jury awarded more points to bodies which employed mentally handicapped people. Prizes were awarded at a public ceremony on the official Day of Disabled People.

Over the three years, 181 employers entered for the award, 77 entering in 1992 alone.

OPEN EMPLOYMENT: FINANCIAL MEASURES

The measures below refer only to the employment of disabled people who have passed through the necessary assessment and/or training procedures. It should be noted that these programmes run alongside incentive schemes to promote the recruitment and self-employment of other groups, notably young people seeking their first job and the long-term unemployed but also unemployed women and older workers.

Support for employers

The decree law no. 247/89 of 5 August 1989 imposed new rules for the granting of financial assistance first introduced in 1982 (order no. 52/82). It also introduced new incentives, including grants for personal attendance and awards to employers who take on disabled workers on a permanent contract. Reduction of employers' social security charges was possible from 1986.

In addition, from time to time disabled people have been specified in job creation measures to promote recruitment of particular groups or in priority sectors.

Compensatory allowance

Lump-sum compensation for firms taking on disabled workers under retraining or rehabilitation schemes was introduced in 1982. The 1989 law articulates the aim as compensating employing bodies for the lower performance of disabled workers while they adapt or re-adapt to work, providing the worker at the outset achieves 25 per cent of the production capacity of the job. The initial sum is reduced by 20 per cent after three months, by 40 per cent after six months and by 75 per cent at the end of nine months. If at the end of one year the worker has not achieved 80 per cent or more the employer may apply for the lowest rate to be extended for a further two periods of one year.

Integration award

Under the law of 1989 an integration award is given to the employer for each disabled worker hired on a permanent contract; the value of the award is 12 times the minimum wage.

Allowance for personalised attendance

Under the decree law of 1989 employers may apply for a grant to reimburse payment made to personnel contracted to provide personalised attendance (follow-up and support to the disabled person through the

process of socio-vocational integration, adaption to the production system and to the work station). The grant cannot exceed twice the minimum monthly wage; it is granted for three months from hiring and may be extended for further periods of one month to an upper limit of six months, if the employer has good grounds (MISEP, 1992).

Adaptation of work stations

Grants to firms or other bodies to adapt their equipment or installations to the functional difficulties of disabled people they propose to employ were introduced by order in 1982. Under the revised arrangements of the law of 1989, IEFP assesses technical solutions when employers apply for grants where disabled workers are hired or workers become disabled.

Elimination of architectural barriers

First introduced by order in 1982, new arrangements allow IEFP to assess technical solutions to physical obstacles of access or inside work premises when employers apply for grants where disabled workers are hired or workers become disabled, and also to assess the disability involved. The allowance cannot exceed twelve times the minimum monthly wage.

Table P.3 shows the number of people benefiting from these subsidies.

Reduction of employers' social security charges

Employers who take on disabled people on permanent contracts are entitled to a reduction of approximately 50 per cent of their social security charges for those workers. The relevant decree laws are no. 299/86 of 19 September 1986, which came into effect in 1987, and no. 125/91 of 21 March 1991. In 1987, 34 people were affected by these reductions. Table P.4 shows growth in numbers to 1,050 in 1996. Between January and July 1996, an average 800 disabled workers were affected and an average 424 firms (IEFP communication).

Table P.3 Number of people benefiting annually, by type of subsidy

Year	Compensation	Integration bonus	Personal assistance	Elimination of barriers & adaptations
1989	140	-	-	13
1990	177	52	13	8
1991	275	201	78	29
1992	294	247	59	31
1993	430	297	95	47
1994	293	264	80	27
1995	372	289	120	30

Source: IEFP communication

Employers can also be exempted from paying social security contributions for 36 months when they recruit young people seeking their first job and the long-term unemployed for an unlimited period. For limited period recruitment, there is a 50 per cent reduction during the period of contract (Multiannual Employment Programme, 1994-1999). Under an earlier programme of exemption for recruiting young first-time job seekers, 42,750 persons benefited in 1994 (MISEP, 1995).

Table P.4 Number of persons affected by reductions of employers' social security charges, by year

Year	Number
1991	200
1992	381
1993	470
1994	575
1995	958
1996	1,050

Sources: MISEP 1991; 1995; 1997

Support for disabled people

Aids

Provision was made recently for grants towards technical aids and with acquisition of motorised tricycles for access to training and work. In 1994 and 1995, 342 and 500 people benefited from this provision and the financial allocations were ESC 15,219,00 and 123,573,000.

Self-employment

Aid to help in setting up a business stems from the order of 1982 (order no. 52/82 of 26 April).

The decree law of 1989 says that disabled persons who wish to begin self-employed work, have difficulty finding or holding a job in the normal labour market and do not themselves have the resources, may be granted an allowance to cover start-up costs. The maximum grant is equal to 16 times the minimum monthly wage. Interest-free loans may be granted in addition, to be repaid within 10 years. Loans are for up to 20 times the minimum monthly wage for equipment or materials, and up to 30 times for purchase, conversion, construction or transfer of facilities. The terms of repayment may be improved if the self-employed person takes on other disabled workers.

Lheureux (1991) states that between 1982 and 1987, 1,500 disabled people benefited from self-employment grants and loans.

The numbers of beneficiaries between 1989 and 1995 are shown in Table P.5.

Table P.5 Beneficiaries of aid to start up in self-employment, by year

Year	Beneficiaries
1989	280
1990	333
1991	196
1992	145
1993	218
1994	147

1995	179
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Source: IEFP communication

Combining work and pension

A measure in 1991 allows for the reduction in social security contributions, from 11 to 9.5 per cent, of persons receiving disability and old-age pensions who are working.

SHELTERED EMPLOYMENT

Sheltered employment was legislated for in 1983 by decree law no. 40/83. Implementation regulations were issued in 1995 (decree law no. 37/85).

Samoy (1992) reports that the first workshop was legally established in 1988. It is clear from Seyfried and Lambert (1989) that workshops were already in existence in the early 1980s and that some then developed into formal sheltered employment institutions. Commentators suggest that self-help initiatives, often set up by groups of parents, stimulate the development of sheltered workshops (Waddington 1992).

There is separate provision for severely disabled people. A decree in 1989 (no. 18/89) provides for occupational centres meant for severely disabled people who are highly dependent, have productivity levels of below 30 per cent, and cannot undergo training to be placed in open or sheltered employment. Those who attend centres may receive remuneration and a share of the net profits from goods sold. Centres were established by social insurance institutions.

Aims and target group

The principles of sheltered employment are set out in the decree law of 1983, with amendments in 1985 (194/85) mainly to eradicate disablist language. Sheltered employment has three official objectives:

- to provide training to all disabled persons who, because of their disability, cannot be integrated into a normal working environment and whose capacity for work is not less than a third of the normal capacity required of an able-bodied worker doing the same job
- to promote transfer, wherever possible, to the ordinary employment market
- to enable the right to work, with a contract, in stable employment.

Applicants must have completed a suitable medical rehabilitation process and be registered at the appropriate offices of the Ministry of Employment, among other conditions. Assessment is carried out by an expert team of four, organised by IEFP. Applicants must also be sufficiently independent in the performance of the activities of daily living and be capable of understanding and observing work rules.

Provision and funding

Sheltered employment encompasses work at special centres and in normal production units (enclaves). Work at home is not regulated by the law on sheltered employment.

Sheltered employment centres (SECs): The number of jobs staffed by workers not covered by the rules of sheltered employment must not exceed 25 per cent of all jobs in a SEC.

Enclaves: An enclave is understood as a group of disabled persons who work together, under special conditions, in a normal working environment. The location of the enclave should avoid marginalising the disabled workers and should facilitate access to other workers. An enclave may be set up on the initiative of the state, of public or private organisations or of co-operatives, with prior authorisation from the Ministry, following appropriate proposals. Each enclave has its own regulations approved by the Ministry.

The growth in sheltered work centres and enclaves and employees is shown in Table P.6.

Table P.6 Provision of sheltered work and employees, by year

Year	Institutions	Employees		Total
		Sheltered work centres	Enclaves	
1989	13	182	178	360
1990	18	513	257	770
1991	28	794	240	1034
1992	28	791	274	1065
1993	30	846	287	1133
1994	30	689	436	1125
1995	30	689	436	1125

Source: IEFP communication

IEFP gives technical and financial assistance to the establishment of sheltered employment. Financial assistance takes the form of loans of equipment, subsidies for premises and maintenance of equipment and loans for premises. It also remunerates workers under the sheltered employment scheme, paying the difference between the amount calculated as a wage for the job, according to the degree of disability and the national minimum wage, and also wages during the probation period, equal to 70 per cent of the national minimum wage.

The budgetary allocations for the years 1989 to 1992 are given in Table P.7.

Table P.7 Budgetary allocations for sheltered employment, 1989 to 1992 (ESC)

1989	1990	1991	1992
375,000	558,200	329,750	553,000

Source: IEFP communication

Labour conditions

Disabled workers in sheltered employment are acknowledged as having the rights, duties and guarantees due to workers in normal employment. As noted, the worker has a right to a minimum wage, except during the probationary period when the is wage equivalent to 70 per cent of the minimum wage.

The law states that, if required, working time must be reduced and rest periods extended. Night work and

shift work are subject to approval by a team of rehabilitation specialists (MISEP, 1995).

Activities

Sheltered work, according to Lheureux (1991), is mainly organised around trades. Lheureux lists the sorts of activities undertaken, including printing and graphic design, dairy production, bakery, woodworking and joinery, husbandry, electronics, textiles and fashions, domestic cleaning and gardening.

Employees

In common with Samoy and Lheureux, we have no information about the characteristics of people in sheltered employment. Nor do we know how far the aim of transition to open employment is met. Calado (1995) comments that transition is obstructed because of centres' reluctance to lose productive workers, on the level of support which may be a disincentive to leaving sheltered work for open employment and on families' attitudes.

SUMMARY

A comprehensive law was introduced in 1989, following references in the 1976 Constitution to the rights of disabled people and the policy making role of the State. The fundamental principle of 'equalisation of opportunities' is to be achieved by attention to individual needs and 'elimination of all discrimination' by overcoming social, cultural and physical barriers to integration. Policy for disabled people in Portugal has been influenced by the United Nations World Programme of Action.

Measures to promote the employment of disabled people developed in the early 1980s with financial incentives to employers, and a law to establish sheltered employment passed in 1983. The framelaw of 1989 aimed to achieve coherent policies, with new emphasis on the role of non-governmental organisations, and to standardise and make more rigorous administration of rehabilitation. Of prime importance is developing the vocational skills and qualifications of disabled people. Attention is directed to training those who themselves train.

The law of 1989 uses the following definition of a disabled person:

a person who, because of a loss or abnormality, congenital or acquired, of psychological, intellectual, physiological or anatomical structure or function susceptible of causing limitations to capacity, may be considered in disadvantageous situations for the fulfilment of activities considered normal, taking into account age, sex and the prevailing socio-cultural factors.

With reference to employment, a further statute says:

a disabled person is considered as any individual who, because of limited physical or mental capacity, encounters difficulty in obtaining or holding a job suited to his or her age, qualifications and professional experience.

The National Secretariat for Rehabilitation (NSR) is responsible for rehabilitation policy and its co-ordination. In 1993 a Commission was set up with a brief to design and implement a plan of action for rehabilitation to the year 2000. The social partners and NGOs are represented on the NSR. A 'dialogue group' of NRS representatives and 22 national disability organisations meets.

Within the Ministry of Employment and Social Security, the Institute of Employment and Vocational Training (IEFP) is the main governmental agency in the field of employment policy and has budgetary responsibility for programmes affecting disabled people in pre-vocational education, vocational guidance, training and retraining, employment in the normal labour market, sheltered employment and self-employment. Both private and public bodies manage guidance and training centres for disabled people.

The employment law aimed at integrating disabled people into the workforce pertains only to those people who are registered at employment centres and/or undergo assessment. In open employment, apart from an obligation on larger firms to give priority in recruitment to people disabled in the firm's employment, all measures are financial. They include employers' compensation for a period of lower performance while adapting to the job, reduction of employers' social security charges, lump-sum integration awards, grants for adaptation of work stations and for elimination of architectural barriers. Employers may apply for reimbursement of payment to personnel contracted to provide follow-up and support to a disabled person through the process of integration for up to six months.

Grants to disabled people for technical aids and motorised tricycles for access to training and work were recently introduced. There are start-up grants to disabled people for self-employment. A short-term 'persuasion' measure was a merit prize awarded to bodies which distinguished themselves in hiring disabled workers. Current programmes include information and awareness-raising measures directed at employers. An example is reported of a club for employers who recruit disabled people on a contractual basis.

Sheltered employment has expanded considerably since its implementation in 1985, reaching 30 establishments with 1,125 workers in 1995. It caters for people who cannot be integrated into a normal working environment, by reason of their disability, and whose capacity for work is not less than one-third. Its aims are to provide training, promote transfer to the ordinary employment market, wherever possible, and to enable the right to work, with a contract, in stable employment. There are two types of sheltered employment: work in special centres and in an 'enclave' in normal production units. Technical and financial assistance is provided by IEFP, including subsidies for premises and the difference between the amount earned and the national minimum wage.

In 1995, the labour force was 4.75 million and 325,400 were unemployed. The 1981 census estimated 6.4 per cent of the population aged 15 to 64 permanently unfit for work (402,000 people). There is no comprehensive information on disabled people in employment or unemployed.

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SPAIN

POLICY AND INSTITUTIONAL CONTEXT

Disability policy and legislation

The Spanish Constitution of 1978 (article 49) confers rights 'by reason of their inherent dignity' on persons with physical, mental or sensory disabilities, with the object of enabling them to achieve complete self-fulfilment and total social integration, and on persons suffering from major disabilities, with the object of providing them with the necessary assistance and care. It stipulates that the public authorities are under an obligation to pursue policies for the integration of disabled people. Article 14 of the Constitution states that 'Spanish people are equal before the law and there can be no discrimination whatsoever for reasons of birth, race, sex, religion, opinion or any other condition or personal or social circumstance'.. Logically, 'personal circumstances', include reduced capacity or impairment. However, this legislation has not led to real and effective non-discrimination (Sanchez-Cervera, 1997).

In 1982 Spain introduced major legislation, the Disabled Persons Social Integration Act (Act no. 13 of 7 April 1982), based on the principles of the 1978 Constitution. Article 2 states that the Spanish Government:

will base its legislation relating to the social integration of disabled persons on the Declaration on the Rights of Mentally Retarded Persons, approved by the United Nations on 20 December 1971, and on the Declaration on the Rights of Disabled Persons, approved by Resolution 3447 of the United Nations on 9 December 1975, and will adapt its policies to those Declarations.

The 1982 Act set out a series of measures aimed at consolidating and clarifying legislation and policy affecting the rights of disabled people, access to vocational training and employment in the open labour market and in sheltered workshops. It specified the state's obligations to provide for the prevention of disability and for medical and psychological care, appropriate rehabilitation, education, guidance, integration at work, the guarantee of certain minimum economic, legal and social rights, and social security (article 3). The Act also decreed that responsible public authorities must enforce architectural and urban planning standards guaranteeing the accessibility of buildings, public thoroughfares, parks and gardens. They must also facilitate the adaption of existing buildings for disabled persons.

In May 1991 the Minister of Social Affairs gave an undertaking to the Congress of Deputies to draw up an action plan which will endeavour to give priority to eliminating the shortcomings in the implementation of the 1982 Social Integration Act. The Plenary Assembly of the Congress of Deputies agreed to set up within the Committee on Social and Employment Policy (CES) a working party on the problems of disabled people. The working party completed its work in December 1992, drawing up a report describing the sectoral policies on vocational integration, economic and social benefits, education, elimination of obstacles, prevention and health care, and involvement of associations, calling on the competent authorities to achieve certain objectives and stressing the need for co-ordination of policies and services.

These recommendations were taken into account by the National Institute for Social Services (INSERSO) in drawing up an Action Plan for Disabled People, together with the most important recommendations of the international organisations such as the United Nations, the European Union, the Council of Europe and the International Labour Organisation. It also took account of trends and practices in the Member States of the European Union. The Plan is based on a threefold approach:

- a political compromise on the part of all the groups represented in the Congress
- the active involvement of the competent authorities, both within the various
- Ministries concerned and in the Autonomous Communities the responsible participation of the organisations representing disabled people.

The Plan is a proposal for an overall policy, divided into five sectoral plans: promotion of health and prevention of deficiencies; health care and rehabilitation; educational integration, economic integration; and, lastly, community integration and independent lifestyles.

The Action Plan was accepted by the Ministry of Employment and Social Services and passed to the Autonomous Communities for subsequent governmental approval. Implementation awaits their approval.

Evolution of disability employment policy and legislation

The Constitution of 1978 lays down the basic rights of all Spaniards to work and to full employment, and explicitly recognises the rights of disabled people (articles 35.1 and 40.1). The 1982 Act on social integration states that the first aim of employment policy for disabled workers shall be to integrate them in the ordinary system of employment or, where this is not possible, to incorporate them in the system of production through the special sheltered employment scheme (article 37). Disabled people's entitlements in relation to employment appear under the headings 'vocational rehabilitation' and 'integration at work'. The provision of vocational rehabilitation services was to be subject to a new national plan; details were given in subsequent regulations. The provisions under the heading 'integration at work' included:

- a quota system
- equal treatment in examinations for public sector appointments
- financial subsidies and loans to employers and to encourage self-employment
- a register of disabled jobseekers.

The law forbids any form of discrimination as regards recruitment or in the course of employment on the grounds of reductions in physical, psychological or sensory capacities, where the worker meets the requirement of ability to perform the job in question.

A Royal Decree in 1983 (Royal decree 1451 of 11 May 1983) implemented certain of these measures with immediate effect, including:

- an obligation for public and private employers of more than 50 employees to set aside two per cent of jobs for disabled persons registered with the employment offices
- a grant paid to firms for each full-time permanent job for which a disabled worker is recruited
- a reduction in the employer's social security contribution in respect of disabled workers
- support for workers' co-operatives whose members include disabled workers.

There are also fiscal incentives for annual increases in a firm's disabled work force.

The 1982 Act also provided for the employment in a special workshop of a disabled person who, on account of the nature or consequences of his or her disability, is either temporarily or permanently unable to engage in gainful employment in normal conditions. The public authorities were authorised to pay financial compensation to special workshops, and were to encourage and support their establishment. Two Royal Decrees in 1985 (1368; 2273) set out rules for special employment centres. Occupational centres, defined as a social service for personal development, were also subject to a Royal Decree in 1985.

Policy for employment of disabled people has remained virtually unchanged since the 1982 Act and its subsequent regulations. Two further orders and royal decrees (of 1986 and 1987) concerned job creation measures and reservation of three per cent of civil service posts for disabled people. A further important development was the law on infringements and penalties of a social nature, approved in April 1988. It classifies as a serious offence action by an employer which is contrary to the right of disabled persons not to be subject to discrimination as regards recruitment or in the course of employment, and failure to comply with rules governing reserved jobs and the recruitment obligations imposed on employers. The law provides for fines. Law No 13 of 18 May 1995 prohibits dealings with Government by those found guilty. The same law provides for preference to be given in awarding contracts to public or private enterprises whose workforce includes at least two per cent disabled persons.

Policy for disabled people must be considered in the context of employment policy generally in Spain (as laid out in the Ministry of Labour and Social Security's Labour Guide, 1995). Financial incentives to employers to enter into full-time training/employment contracts and to employ unemployed disabled workers and unemployed persons over 45 are rather higher than those for other groups. Under the National Plan for Vocational Training 1993 (FIP), training is given to the unemployed but priority is given to unemployed disabled workers as well as to women and migrants who are the only group still in receipt of training grants. The Government sees disabled workers as a group in need of special consideration and has accordingly boosted financial incentives to promote their employment.

Section 4 of the Action Plan for Disabled People (hereafter Plan 4) is devoted to economic integration. Proposed employment measures (detailed at relevant points in the text which follows) include:

- an alternative means of meeting the quota obligation by contribution to a special fund for the employment of disabled people

- a target for the year 2000 of a four per cent disabled workforce within companies employing 25 or more staff
- the production of a code of practice
- forms of supported employment
- further financial incentives to employ disabled people
- improved design of work stations
- strengthening the viability of special production centres.

The Action Plan emphasises collaboration between authorities, including joint vocational integration plans. Programmes are planned for transition from school to work and from special centres to open employment.

Policy-making and implementation

Policy for employment of disabled people is the responsibility of the Ministry of Labour and Social Security. Services are provided by the National Employment Institute (INEM). While part of the Ministry of Labour and Social Security, INEM has the status of a 'self-governing' body. INEM has a central office and over 50 provincial offices. Under those provincial offices several hundred 'Centros de Formación Ocupacional', offer:

- registration of jobseekers
- offers of suitable jobs
- information on occupational training
- information on and processing of unemployment and work-related benefits
- vocational guidance.

Some functions have been transferred to some of the 17 Autonomous Communities, as indicated in Table S.1.

Occupational training is co-ordinated by a National Plan for Vocational Training and Rehabilitation, first passed by the Council of Ministers in 1985 and regulated by royal decree. Special training programmes are devised

Table S.1 Devolution to autonomous communities of responsibilities for labour and social matters

Autonomous community	Occupational training	Job support programmes	Workers co-ops & limited cos	Redundancy	Employment (labour contracts)
Andalusia	*	*	*	*	*
Aragon		*	*	*	*
Asturias					
Balearic Isles					
Canary Isles	*	*	*	*	*
Cantabria					
Castille - La Mancha		*	*	*	*
Castille - Leon					
Catalonia	*	*	*	*	*

Extremadura		*	*	*	*
Galicia	*	*	*	*	*
Madrid					
Murcia		*	*	*	*
Navarre		*	*	*	*
Basque Country		*	*	*	*
Rioja					
Valencia Com	*	*	*	*	*

Source: Ministry of Labour and Social Security, Labour Guide, 1995

for disadvantaged groups, including disabled people. Occupational training is managed by INEM, which runs its programmes either directly or through its managing centres, or by agreement with institutions and employers.

The National Institute for Social Services (INSERSO) of the Department of Health co-operates with INEM in the provision of training programmes for disabled people. Otherwise its activities relating to the employment of disabled people are limited to the provision of 'occupational centres'. These are distinguished by law from 'special employment centres' (sheltered workshops) catering mainly for moderately to severely mentally disabled people. The latter were set up under Article 2 of the Royal Decree 2274/85 not as employment centres but as places where severely disabled people can have the opportunity to learn life skills and be involved in occupational therapy. Those attending occupational centres are not considered to be employees and as such are not bound by the rules of labour contracts (Sanchez-Cervera, 1995). INSERSO has also been responsible for vocational guidance and assessment of disabled people, offering medical diagnosis, rehabilitation and treatment for all age groups.

The social partners

In the context of the involvement of the social partners, Law No 21 of 17 June 1991 established the Economic and Social Council (CES) as an advisory body to the Government on matters relating to socio-economic and labour legislation and as an instrument of participation in economic and social life, through the trade union and employers' organisations, and representation of agricultural, sea-fishing, consumer/user and co-operative federation and associations, as well as the relevant group of experts.

The CES issues mandatory opinions on draft Government laws and Legislative Royal Decrees relating to socio-economic and labour matters; in addition, it issues optional opinions at the request of the Government, or on its own initiative, and draws up studies and reports at the request of the Government or its members and on its own initiative.

In October 1995 the CES adopted its report on 'The Employment Situation of Disabled People and Recommendations for Improvement' (CES, 1995) requested by CERMI (Confederación Coordinada Estatal de Minusválidos Físicos de España), as a response to the latter's Plan to Reactivate Employment among Disabled People (CERMI, 1994). The General Vocational Training Council (CGFP) is an advisory body to the Government and consists of 13 representatives from the central administration and 13 each from the largest employers' associations and trades unions. FORCEM (Further Training Foundation) was founded in 1992 and was established by trades unions and employers' associations for the purpose of providing in-plant vocational training.

Disabled peoples' organisations

The Social Integration Act of 1982 stated that, in achieving its purposes, particular attention should be paid to encouraging non-profit-making institutes, associations and foundations set up by disabled people themselves or by their relatives or legal representatives.

The disabled people's associations are represented on the Royal Foundation for Preventive Care and Treatment of Disabled Persons alongside representatives of the administrative (advisory body), the Disabled Persons Board of the National Social Services Office and the Council of State of representatives of disabled people. The latter is made up of disabled people and holds periodic meetings with representatives of the Ministries of Labour and Social Security (EC, 1988).

DEFINITIONS OF DISABILITY

The definitions of disability as used by the World Health Organisation are given as follows (CES, 1995):

<i>Impairment</i> <i>(Deficiencia):</i>	Psychological, physical or sensory loss or abnormality resulting from illness or accident
<i>Disability</i> <i>(Discapacidad):</i>	Permanent physical impairment resulting from illness or accident (on a personal level)
<i>Handicap</i> <i>(Minusvalia):</i>	A deficiency or impairment which limits or impedes normal development and/or function and is a consequence of illness or accident (on a social level)

For the purposes of the 1982 Act the expression 'disabled person' means any person whose possibilities of participating in education, work or social activity are reduced as a result of a physical, mental or sensory impairment, whether congenital or not, which is likely to be permanent. To qualify for programmes run by INEM people must be registered unemployed and disabled, with a reduction of capacity for work of at least 33 per cent.

STATISTICS

In 1995 of a total population of 38,872,268 the Spanish labour force equalled 15,564,900, representing an activity rate of 48.9 per cent (women 36.1 per cent, men 62.6 per cent). The number unemployed was 3,537,500, a rate of 22.7 per cent, of whom 57 per cent were unemployed for longer than a year (MISEP, 1995).

The most recent data on the disabled population are those gathered in a survey by the National Statistical Institute in 1986. The survey covered the whole of the national territory with the exception of Ceuta and Melilla. The population surveyed covered all persons who normally reside in a family home. The study is fully reported by Grammenos (1992). It is particularly useful in distinguishing between impairment, disability and handicap (according to the agreed system of International Classification).

According to these definitions:

- some 20 per cent of the population have an impairment
- 14.9 per cent have a disability
- 6.0 per cent have a handicap or disadvantage resulting from an impairment or
- a disability.

Table S.2 shows the figures broken down by age for 1986. No later figures broken down in this manner are available.

The 1986 national survey gives the breakdown by type of impairment for two categories of persons: persons with a disability; and persons with a handicap (Table S.3). In both cases physical impairments predominate, with 60 per cent of persons with a disability and 68 per cent with a handicap having a physical disability. Grammenos (1992) notes that the main interest concerns psychological and mixed impairments. The proportion of such impairments doubles when we move from disability to handicap, implying that a person with a psychological impairment will be more likely to suffer a handicap than someone with a physical or sensory impairment.

Disabilities affecting locomotion are the most frequent; these affect the ability of an individual to perform activities involving changing the place of objects or of his/her own body (Grammenos, 1992).

Table S.2 Adults with a disability and with a handicap, 1986

Age	Adults with disability			Adults with a handicap		
	No.	% of total disabled persons	% of population	No.	% of total disabled persons	% of population
15 - 24	215,100	3.7	3.3	107,000	4.6	1.6
25 - 44	493,800	8.6	4.8	240,600	10.4	2.4
45 - 64	1,938,200	33.7	23.0	800,200	34.6	9.5

Source: Grammenos, 1992, table 4

Table S.3 Type of impairment, 1986

	Persons with a disability (resulting from an impairment)		Persons with a handicap (resulting from an impairment)	
	Total	%	Total	%
Impairment	1000	%	1000	%
Mental				
mental retardation	179.8	3.1	160.0	6.9
mental illness	181.0	3.2	144.5	6.3
other	87.7	1.5	59.9	2.6
Sensory				
hearing	836.6	14.6	278.4	12.0
sight	762.8	13.3	375.8	16.3
language	93.6	1.6	55.1	2.4
other sensory	190.3	3.3	65.2	2.8
Physical	3,456.2	60.2	1,583.4	68.5

of which locomotor apparatus	1,930.1	33.6	945.0	40.9
Combination of categories	28.7	0.5	25.8	1.1
Other	1,192.6	20.8	286.2	12.4
Total	5,741.0	100.0	2,312.0	100.0

Source: Grammenos, 1992, table 8A

The 1986 national survey gives the breakdown by type of handicap shown in Table S.4. Occupation handicaps are the most frequent (77 per cent). Here 'occupation' means an individual's ability to occupy his or her time in a normal manner for someone of the same sex, age and education. 'Economic independence' is an individual's ability to perform a normal socio-economic activity and to be self-sufficient (Grammenos, 1992).

Table S.4 Type of handicap, 1986

	Persons with a handicap	
Handicap affecting	1000	%
Sense of direction	495.2	21.4
Physical independence	673.2	27.6
Mobility	948.2	41.0
Occupations	1,789.8	77.4
Social integration	672.3	29.1
Economic independence	672.7	29.1
Total	2,312.1	100.0

Source: Grammenos, 1992, table 8C

The same survey gives numbers of disabled workers in ordinary employment, shown in Table S.5. These figures represent 75.9 per cent of those in employment, 13 per cent of whom are self-employed. Special employment centres provide work for 20.3 per cent of disabled workers, many of whom are the younger workers.

Table S.5 Disabled workers in ordinary employment, 1986

	With a disability	With a handicap
--	-------------------	-----------------

Men	420,177	110,008
Women	154,049	39,936
Total	574,226	149,944

Source: Grammenos, 1992, table 25

Figures released by INEM for 1995 show 29,382 disabled men unemployed and actively seeking work and 13,429 women in the same position. In 1992, the same source cited 20,284 registered disabled unemployed, of whom 13,666 were men.

Data from the 1986 survey, given in Table S.6, compare the workforce position of people with a disability and with a handicap with the general population.

Table S.6 Comparison of position in workforce of disabled people compared to general population, aged between 16 and 64*, for 1986

	Disability	Handicap	General population
Total	2,626,000.00	1,147,800.00	23,247,000.00
Available for work	757,600.00	236,000.00	13,228,500.00
Rate of availability	28.8%	20.7%	56.9%
In work	553,500.00	147,700.00	10,263,800.00
Rate of employment of total	21.1%	12.8%	44.2%
Rate of employment of those available for work	73.1%	62.6%	77.6%
Rate of unemployment	26.9%	37.4%	22.4%

* Estimated data. Statistics produced by EDDM do not exactly coincide with this age bracket.

Source: CES, 1995

EMPLOYMENT SUPPORT SERVICES

Assessment

Multi-disciplinary assessment teams were established under the 1982 law (article 10). These teams assess whether disabled people meet the admission requirements for sheltered employment and other provisions. They are also responsible for vocational and other forms of guidance (for instance, to promote integration into the educational system), and for liaising with the job centres for the placement of disabled people in open employment. The teams were expected to bring unity to the multitude of assessment bodies and techniques.

According to Samoy (1992), no decree for the implementation of the Act regarding the role of the multi-disciplinary teams had been issued; their functions were being carried out by the multi-disciplinary teams already in operation. The membership of these teams has to include a rehabilitation physician, a

psychologist and a social worker. The teams form part of a network of local social service centres (Centros Base) in the provincial capitals and in larger towns.

These teams were first responsible to INSERSO. Since the transfer of responsibilities to the regions (Comunidades Autonomas), they are now part of the new structures in some of the regions. Samoy (1992) comments that the transfer of responsibilities to the autonomous communities threatens the achievement of uniformity of assessment intended by the 1982 Act.

Mainstream training

The present vocational training arrangements are based on the National Vocational Training Programme agreed between the Government and the social partners and adopted on 5 March 1993, which brings together the two existing vocational training sub-systems, namely initial vocational training, provided by the education authorities, and vocational training for workers, provided as part of their work activities, to form an integrated system of vocational training. The National Programme gives priority to measures targeted at the training of disabled people, migrants and other groups seeking their first job, including some 80,000 pupils, with a budget of around PTA 35,200 million for the four years of the Programme (1993 to 1996). In order to guarantee the quality of vocational training, the Programme also provides for measures aimed at improving the quality of training facilities and the system in general by means of, amongst other things, specific teacher-training programmes, provision of equipment, evaluation of vocational teaching and guidance programmes.

Royal Decree No 631 of 3 May 1993 governs the National Plan for Vocational Training and Integration (Plan FIP). This covers all vocational training measures for unemployed workers with the aim of providing them with the qualifications required by the production system and placing them on the labour market when they do not have specific vocational training or their qualifications are insufficient or unsuitable. In the Plan it is laid down, in keeping with the above-mentioned National Programme, that priority will be given to the participation of groups of unemployed persons with special difficulties of vocational integration or reintegration, particularly disabled people, women and migrants, maintaining the previous system of grants for disabled pupils, which have been abolished for the other groups apart from craft apprentices and certain unemployed farm workers. Courses are planned by INEM or the Autonomous Communities. Apprenticeship Centres are aimed at the unemployed under 25s (there is no age ceiling for disabled people) who learn through alternate 'hands on' work and study.

The third pillar is constituted by continuing vocational training. Under the National Agreement on Continuing Training signed by the most representative trade union and employers' organisations in December 1992, supplemented by the Tripartite Agreement on Continuing Training of workers in employment and with the same duration as the National Programme, the social partners are given responsibility for all matters relating to organisations, administration, distribution of funds or, where appropriate, execution and justification of measures through the Fundación para la Formación Continua (FORCEM). FORCEM is a joint body set up to administer the aids granted under the Agreement, including those for disabled persons in employment.

Specialist training

Table S.7 shows the data on the population covered by the vocational training programme run by INSERSO. The total number of disabled pupils receiving training between 1988 and 1994 was 19,446, an average of 2,778 a year, with a sharp rise in the numbers taking part from 1992 onwards.

INEM also runs a vocational training programme for disabled persons, with a total of 2,042 workers having

been assessed positively between 1988 and 1993. It should be noted that, in addition to those trained under this specific programme, this group took part in training measures included in the other programmes.

From 1994 onwards the Plan FIP was no longer divided into programmes, so that there are no specific data on this group of persons, who take part in the general training courses on a preferential basis.

It is estimated that 41 per cent of disabled Spanish citizens have had no schooling, three per cent reach university level and 21 per cent reach secondary education. One explanation given is overprotection by the family group; another is the lack of physical and architectural adaptations in school to accommodate disabled students (El Mundo, 1996).

Table S.7 Attendance at vocational training directed by INERSO, by year

Year	Disabled people
1988	5,427
1989	7,338
1990	12,097
1991	13,766
1992	14,433
1993	14,176
1994	15,743

Placement

Placement is governed by the basic law on employment of 1980, revised by the Law on Immediate Measures to Promote Employment 10/1994 of 15.5.1994 which removed obligation on employers to recruit personnel solely via INEM. However, employers must still register employment contracts and inform INEM of new contracts. Royal Decree 735/1995 regulates the existence of non-profit-making job placement agencies which must be licenced by INEM. Workers are also required to register when looking for work. Job centres run by INEM have been found inefficient and of little value to both prospective employers and employees (Caleidoscopia, 1995).

INEM manages the placing of disabled persons who have completed the vocational rehabilitation process. The employment offices draw up registers of disabled workers looking for work and registered as unemployed. The registration system has been criticised for inefficiency (Fargas, 1995). It appears that the number of disabled workers registered is very low.

Voluntary agencies

In addition to state placement and employment promotion services, ONCE, the national association for blind and visually impaired people regulated by Royal Decree, is involved in the provision of employment in the open market. One of its daughter companies acts as an employment agency focussing on people with disabilities. Within this programme there is a data bank of more than 25,000 disabled workers which allows an immediate response to requests for such a worker from an employer in the open market. Up to now more

than 150 people with disabilities have been recruited by companies through this programme. The company also organises vocational training courses which are aimed at three different groups:

- unemployed people with disabilities. The training courses are focused on the labour market needs or on their own needs as a group of companies
- on-going training for disabled and non-disabled staff of their own companies
- management skills training for staff of the different associations of and for disabled people (ONCE communication, 1996).

Supported employment

A comprehensive review of the origins, development and functioning of supported employment in Spain is provided by Verdugo *et al.* (1997) and this section draws on that account.

Supported employment programmes were first established in 1986, following the normalisation principles of the Social Integration Act of 1982 and the programme established by the Ministry of Education and Science in 1985 to support the integration of disabled children into ordinary schooling. The first programme, in Barcelona, aimed to integrate people with Down's Syndrome into companies in the open market but it was not until 1991 that supported employment programmes began to take hold in Spain. Between 1991 and 1995, 18 programmes were initiated and by 1995, 24 were in place.

A study carried out in mid 1995 by the Masters course on Integration of Disabled People at the University of Salamanca, in conjunction with the Spanish Association for Supported Employment (AESE) gathered data from 32 public and private companies with experience of supported employment. At the time that the data were collected, nearly 800 handicapped workers were identified in supported jobs in the ordinary job market. Numbers had grown by 200 in 1994 and also in 1995. Most programmes work with people with learning disabilities, who make up 81 per cent of those integrated into the labour market.

Verdugo *et al.* (1997) comment on outstanding problems, including the limited training available for professionals and job coaches (notwithstanding University of Salamanca and AESE courses), the need to develop systematic programme evaluation, and the need for legislation to promote, regulate and provide funding for this type of alternative employment and for the incentives required to convince employers to take on workers under supported employment initiatives.

OPEN EMPLOYMENT: LEGAL OBLIGATIONS AND RIGHTS

Non-discrimination legislation

The 1982 Act forbids any form of discrimination in recruitment or in the course of employment on the grounds of reductions in physical, psychological or sensory capacities, where the worker meets the requirement of ability to perform the job in question. Later legislation, approved in April 1988, classifies as a serious offence action by an employer which is contrary to the rights of a disabled person not to be subject to discrimination. The law provides for fines ranging from PTA 50,000 to 500,000.

Table S.8 gives an indication of the number of cases where infringements of these laws were alleged to have taken place and action taken. As can be seen from the table there were very few cases where action was taken against the employer.

Quota system

The quota system came into effect in May 1983. It required every public and private undertaking employing more than 50 permanent workers to employ a number of disabled workers representing at least two per cent of the staff. Ahuja (1992, p.98) notes that the law stipulated that Collective Agreements should determine the 'ratio of jobs which may be allocated preferably to the disabled' and 'the reservation with absolute preference'.. The quota applies only to the employment of people registered as disabled with the employment office; that is, people whose capacity for work is reduced by 33 per cent or more.

A later royal decree (198 of 1987) on the recruitment of civil service staff introduced the principle that three per cent of posts should be reserved for disabled people. In the case of General Government, Law No 23 of 28 July 1988 extended the obligation to set aside civil service posts for disabled persons, which previously applied solely to manual staff, setting a quota of three per cent until such time as they make up two per cent of the total number of government employees. This change in the regulations meant that the reserved posts apply to all vacancies, enabling the persons in question to be assigned to grades or manual categories more appropriate to the characteristics of their disability.

Table S.8 Results of investigation into alleged infringements of disabled workers' rights for 1994 (provisional data for 1995 in brackets)

Details of infringement	Investigations	Infringements	Workers affected	Injunctions
Conditions of work and discrimination of workers	534(218)	7(3)	246(13)	1(3)
Discrimination re: access to work	3,546(878)	7(1)	57(1)	1(4)
Control of contracts	2,308(1,306)	31(27)	33(34)	10(6)

Source: Inspection Directorate of Department of Labour and Social Security

The Ministry of Labour and Social Security should publish information on recruitment as part of public awareness action. In the private sector, undertakings employing more than 50 workers must submit to the employment office a detailed report on the jobs held by disabled people. However, according to the EC Report of 1988, they do not usually comply with this requirement (EC, 1988). In 1993, 4,211,350 people were employed in businesses of more than 50 employees, which should result in an employment figure for the disabled of 84,277, whereas the actual figure was 20,920, 25 per cent of the target.

One reason given so far this low compliance is antagonism towards the Public Administration which fails to meet the quota of three per cent. Garvia (1992) cites the following figures: of 70,000 new public jobs created in the central administration from 1985 to 1988 only 300 (0.48 per cent) were assigned to disabled people.

The number of disabled people enrolled on the register is low. Lheureux (1991) reports that it was 28,000 in 1989. Lheureux contrasts his figure with the estimated 87,640 people 'with a handicap' (that is, the smaller population) seeking work in the 1986 survey. >From this Lheureux concludes that being registered may not appeal to disabled people and/or is considered by them to prejudice their search for work. Secondly, Lheureux's analysis of jobs created in private firms as a result of the 1982 law demonstrates that almost all the positions were created in small firms which fell below the quota criterion of 50 employees.

Non-compliance with the quota obligation, as with other employers' obligations, constitutes an administrative infringement, subject to a fine to be paid to the Treasury, if action is taken by INEM. The EC Report of 1988 suggests that the law on infringements encourages compliance (EC, 1988). According to a brief summary in IRS Employment Trends (1990), compliance depends more on pressure from workers of

the company concerned and also from representative bodies such as the works council.

However, records available show that in 1993 only in Valencia was action taken resulting in various companies being fined between PTA 50,000 and PTA 500,000 (*El Mundo*, 1996). In 1995 there were 1,557 cases of non-compliance affecting 5,201 workers. In only seven cases legal injunctions against the employers were granted. However, some large companies in Spain have adopted a positive approach to employing disabled people, including the telephone service, IBM and the electricity utility.

Law No 13 of 18 May 1995 on government contracts lays down that awarding authorities may indicate in the special administrative specifications that preference in the award of contracts will be given to bids submitted by public or private enterprises whose workforce includes at least two per cent disabled persons, provided that these bids are equal to the most advantageous according to the objective award criteria.

This move, along with the provision to prevent dealings with government by firms guilty of serious infringements, is designed to reinforce the obligation to set aside posts and promote vocational integration of disabled people.

The CES cites the difficulties in the labour market, notably a high unemployment rate, as a major reason for lack of compliance with the quota system. Sanchez-Cervera (1995) believes that integration of disabled people cannot be achieved by the mere affirmation of their right to work and Viso (1995) argues that the answer lies in more rigid controls of quota. It was expected that the Special Foundation for Employment formed in 1995 would address the situation, but the special register for disabled workers kept by INEM has not been effective.

Plan 4 recommends that by the year 2000 the quota for disabled workers should be four per cent in firms employing more than 25 workers. It is also proposed that a Fund be established to finance incentives towards the employment of the disabled in the workforce. Part of the revenue of this fund will come from employers who can contribute to it, as an alternative to fulfilling their quota of disabled workers.

Protection against dismissal

There are special terms to ensure the reinstatement of disabled workers once they have completed the relevant rehabilitation process (Royal decree 1451/83). If a worker suffers a permanent partial disability, he or she is entitled to be re-employed in the same firm, either in the same job with a similar wage level, if output remains normal, or in a job adapted to residual capacity without a drop in wage of more than 25 per cent. In no case may the pay be less than the minimum statutory basic wage, if the worker is employed full time. If the worker regains full capacity, the employer is required to reinstate him/her in the original job. A trial period of adjustment can be agreed but may last no longer than six months. According to Ahuja (1992) previously disability resulted in outright dismissal.

Accommodation

In the procedure for filling civil service posts by competition, disabled persons may include in their application a request for the post(s) to be adapted to a limited extent, and the Assessment Board may ask for an opinion regarding the merits of the adaptation and compatibility with carrying out the tasks involved in the post. Adaptations requested and granted are shown in Table S.9.

Figures from the Ministry of Employment and Social Security give the number of adaptations carried out in 1995 as four at a cost of PTA 600,000 and the number in 1996 (January - September) as 11 at a cost of PTA 1,650,000.

OPEN EMPLOYMENT: FINANCIAL MEASURES

Support for employers

Employers may receive various subsidies for taking on a full-time disabled worker on a permanent contract. Workers are eligible under these programmes if they are declared to be disabled (that is to say, have a reduction of capacity for work of at least 33 per cent) and are registered at the employment office.

Table S.9 General administration: adaptations requested and granted by type of worker

Year	Office workers		Manual workers	
	Requested	Conceded	Requested	Conceded
1988	1	1	93	22
1989	11	11	16	35
1990	37	36	258	254
1991	27	21	330	261
1992	59	58	21	21
1993	29*	29*	345	#
1994**	224	214	#	#

* Incomplete data

Data not available

** Provisional data

Source: Real Patronato de Prevención y de Atención a Personas con Minusvalía (1996)

Recruitment grants

A per capita grant from INEM equals PTA 500,000 for every worker hired. The amount of the subsidy has not been raised since 1984, having been introduced in 1983 at PTA 300,000, but an increase of 50 per cent over this amount is proposed under the 1996 Report on Employment of Disabled People in the Community. The level of subsidy is on a par with that for other sectors of the unemployed population (PTA 500,000 for over 45s, women over 25 restarting work, and women seeking jobs in trades which they are under-represented; PTA 400,000 for people aged 25-29).

The employer may be any type of company or a worker co-operative. The employer who claims the benefits of this type of contract is required to assure a steady job to these workers for at least three years, and in case of fair dismissal of a worker under such a contract must replace him with another disabled worker. If the employer fails to comply with the above requirements, the aid received on account of having hired a disabled worker must be returned. The number of disabled workers hired by the employer may not exceed 51 per cent of the total number of workers on payroll, except where the disabled worker is the only worker on payroll.

The procedure for entering into an indefinite term contract for handicapped workers is as follows:

- The offer filed at the Employment Office (including the business project and report, in the case of newly-established enterprises, describing the jobs available and the percentage of handicapped persons).

- A written agreement made on the official form.
- The worker's legal representatives handed a basic copy of the contract within ten days.
- The contract registered at the Employment Office within ten working days after the contract is made, attaching a basic copy of the contract signed by the workers' legal representatives if they exist.
- A photocopy of the Social Security registration voucher presented.
- A Handicap certificate presented. (*Labour Guide*, 1995)

According to the EC report (1988), the number of disabled beneficiaries of recruitment subsidies rose from 793 in 1983 to 3,755 in 1986, with a fall to 3,469 in 1987. Figures from the MISEP country report (1995) given in Table S.10 show that the number of contracts awarded has more than doubled since 1991.

Table S.10 Number of contracts by year

Year	Number
1988	4,210
1989	3,690
1990	3,941
1991	3,980
1992	4,508
1993	5,803
1994	8,549

Source: MISEP, 1995

Analysis by Lheureux (1991) of 1988 data shows variation across the autonomous communities, from over 400 new contracts in one, to under 50 in three areas. He found a greater proportion of people aged under 25 (27 per cent) under contract compared with the general working population, with a corresponding under-representation of people aged 45 and over. Lheureux also drew attention to the very small proportion of contracts in the agricultural sector in 1988, and with only about 0.013 per cent contracts awarded in this sector. In 1994 the trend continues.

Lheureux reports INEM as suggesting that almost all disabled people employed under these schemes are physically impaired, some with sensory impairments and very rarely with mental disability.

Perhaps the most illuminating of the figures reported by Lheureux are those relating to the size of the firm receiving recruitment subsidies. More than half (58 per cent) had six or fewer workers and a further quarter between six and 25. Only six per cent had more than 100.

Reduction in social security contributions

In addition to the recruitment grant, employers are entitled to a reduction in employers' social security contributions for the disabled worker. The reduction is 70 per cent or 90 per cent, according to whether the disabled worker is under or over 45.

Fiscal incentives

A further measure to promote an increase in the employment of disabled workers is a reduction of an employer's tax bill (laws 31/1991, 20/1992, 21/1993 and 41/1994). The measure provides for a reduction of PTA 700,000 on taxes accrued by companies or professionals for each additional disabled person employed with an open-ended contract, compared with the average total number employed in the previous year (MISEP, 1993). Previously a general deduction, from 1992 it applied only in the case of disabled workers..

From 1996, it has applied to those aged over 45 and disabled people. No data on take-up are available.

Grants for workplace adaptations

Grants for up to PTA 150,000 are available for adjusting work stations or providing means of personal protection. The regulations see protection against accident at work as one of the reasons for adapting the work place.

Grants for employment of sufferers from Toxic Syndrome

A section of the Labour Guide (Ministry of Labour and Social Security, 1995) is dedicated to provision for sufferers of this relatively new disability. No figures are available regarding the number of people disabled by toxic syndrome but measures are set out to encourage their integration into the workforce. To qualify, the worker must be included in the census of persons suffering from the toxic syndrome and be registered at an Employment Office as an unemployed worker or one seeking a job for the first time. Non-reimbursable grants are available to the employers for each contract awarded. For indefinite contracts for a normal working day the amount is PTA 400,000 and for part-time work PTA 250,000, and reimbursement of the employer's social security contributions for a period of not more than 12 months.

Support for disabled people

There are no measures for direct financial support of disabled employees in open employment except those accorded to all public employees for transport costs where applicable.

There is special provision for sufferers from toxic syndrome. Aid to members of Workers' Co-operatives or Workers' Limited Companies is in the form of a grant of up to PTA 600,000 for people who have either lost their job as a result of the toxic syndrome or are registered unemployed and suffering from the syndrome, and are under 25 or have been undergoing treatment for over a year. Similar grants are available to self-employed sufferers.

Self-employment

Registered unemployed disabled workers who wish to become self-employed, are entitled to the following types of aid through the provincial offices of INEM:

Partly subsidised interest: a subsidy covering part of the interest due on loans granted by state or private lending institutions having an agreement with the Ministry of Labour and Social Security, under such terms as may be specified in the agreement up to a maximum of PTA 500,000

Grants for fixed assets: up to PTA 400,000.

Table S.11 shows the number of self employed people and the amount and type of subsidy from 1988 to 1994.

Table S.11 Self-employed disabled people by amount of type of subsidy

Year	Interest		Fixed assets		Total number	Total PTA million
	Number	Amount PTA million	Number	Amount PTA million		
1988	39	12.3	213	84.1	252	96.4
1989	20	5.9	109	42.9	129	48.8
1990*	16	4.8	177	70.8	193	75.6

1991	22	6.7	184	72.7	206	79.4
1992	23	7.2	184	73.1	207	80.3
1993	26	7.8	179	79.2	205	87.1
1994	37	10.6	294	130.9	331	141.5

* not including figures for Galicia

Source: Ministry of Labour and Social Security, 1995

SHELTERED EMPLOYMENT

In Spain, sheltered employment consists of employment in sheltered workshops only. Sheltered employment predated the 1982 Act but, according to a Spanish report cited by Samoy, the various institutions were ill defined and inefficient (Samoy, 1992). Contracts for home work are not allowed, and there is no evidence of forms of supported work, such as enclaves, within open employment.

Aims and target group

The Social Integration Act of 1982, which led to the development of sheltered workshops (Centros Especiales de Empleo), described their aim as follows: 'to do productive work, play a regular part in market operations, provide remunerated employment for disabled workers, offer such workers the facilities for personal and social adjustment that they need and afford a means of integrating the largest possible number of disabled persons in normal employment' (art 42.1). The last stated aim has been interpreted by Lheureux as the encouragement of transfer from sheltered to open employment; a reasonable alternative interpretation is that sheltered employment is considered to be like normal employment.

Special employment centres may be created by public or private bodies and may be profit- or non-profit-making. Management of the centres is by the Ministry of Labour and Social Security or by the Autonomous Community to whom authority has been devolved.

The services on offer consist of rehabilitation, therapy, social and cultural activities and sport, to stimulate the personal development and social integration of the employees (Royal Decree 2273/1985).

Sheltered workshops are allowed to employ disabled people only, with the exception of the non-disabled members of staff required for good functioning (art 42.2). According to the Social Integration Act of 1982, disabled people suitable for placement in a sheltered workshop are people who because of the nature or consequences of their disability are - temporarily or permanently - incapable of working under normal conditions but whose output capacity equals or exceeds a specific percentage of normal work capacity as will be defined in the decree regulating industrial relations in the workshops (art 41.1). As Samoy points out (1992, p.78), the subsequent Royal decree (1368/1985) however, 'does not determine a minimum output capacity but rather a minimum incapacity, namely a 33 per cent reduction in work capacity. For the definition of work capacity, reference is made to the capacity of a non-disabled person with the same professional qualifications'.

The procedure for entering into contracts in sheltered workshops is as follows:

- The contract must be in writing, drawn up on the official form from the Employment Service. It must be of the normal type, but not for home-workers or training contracts which must meet special requirements.
- A copy must be handed to the workers' legal representatives within ten days who must also be advised

of any extension to the contract or its termination.

- The contract must be registered at the Employment Service with a copy of that signed by the workers' legal representatives.
- A copy must also be forwarded to the multidisciplinary team.

(*Labour Guide*, 1995)

Registered handicapped workers must be sought from the relevant Employment Service.

A multi-disciplinary team will check the suitability of the applicant for the job. The team may recommend that a person is placed in an occupational centre instead.

Sanchez-Cervera (1995) argues that the work under contract in these centres must be commensurate with the disabled worker's abilities, but also relevant to the work outside the centre in open employment in order that the transition may be accomplished from one type of employment to another.

CES (1995) recommends that at least 50 per cent of the staff in a special employment centre should be disabled rather than as stated '100 per cent apart from those not disabled required for the successful function of the workshop'. This would, they believe, enable a more realistic bridge to be built between the workshop and the open labour market.

Provision and funding

Table S.12 shows that in six years from 1988 the number of special employment centres has doubled with the ratio of workers to centres staying roughly the same at 28 per cent.

Table S.12 Special employment centres and staffing levels, by year

Year	Number of centres	Number of workers
1988	184	5.018
1989	211	6.043
1990	240	7.081
1991	289	7.793
1992	305	8.393
1993	351	9.249
1994	403	11.277

Source: *INEM*

Lheureux (1991) pointed out the extreme variation in places across 17 autonomous communities, from 0.1 per cent of the total in Murcia to nearly 20 per cent in Catalonia. The Basque country and Madrid together accounted for 55 per cent of places.

Under Law 13/1992, and Ministerial Decrees dated 12.2.1986 and 22.3.1994, for each job held by a disabled person who works a normal working day and is insured under the social security scheme, the following support is available:

- contributions to wage costs of up to 50 per cent of the minimum national 'interprofessional' wage
- 100 per cent exemption from employers' social security contributions
- technical assistance grants of 100 per cent or 50 per cent, depending on the degree of qualification
- grants for adapting workplaces and premises of up to PTA 300,000 per job

- one-off capital grants to balance the income and expenditure of special centres, or their finances to be restructured so that they reach acceptable levels of productivity and profitability
 - grants for balancing the budgets of non-profit utility centres.
- MISEP (1995)

Applications are processed by the provincial offices of INEM or by the Department of Autonomous Communities where applicable.

When employees are taken on they receive a work or training contract (for a maximum period of six years) under the same conditions as open employment contracts. When an employee's output capacity remains 25 per cent below the normal threshold, a special contract for less productive employees is exchanged, allowing the pay to be decreased by up to 25 per cent, although this provision is little used (Samoy, 1992).

CES (1995) believes that the special employment centres have a very important role to play preparing the disabled person for work in open employment but their activities are hindered by a lack of financial incentives. Subsidies have not kept pace with inflation since 1983 and there are insufficient subsidies available to support job creation schemes.

Viso (1995) recommends that the payroll of sheltered workshops should be almost entirely of disabled workers, and that they should be run to a cost effective criteria in order to make them viable. Priority should be given to the sheltered workshops when tenders are granted for official supplies.

Employees

One in five (20.3 per cent) of disabled workers are employed in special employment centres. Statistics from INEM, reported by Samoy (1992), indicate that a large majority of employees in sheltered employment (82 per cent) are 'mentally handicapped'. However, Lheureux (1991) points out that the classification used does not distinguish between mental illness and mental handicap. Fourteen per cent are physically disabled people and four per cent are sensory disabled people. This distribution does not account for multiply disabled people; however, Samoy's source mentions that nearly 20 per cent of the employees are multiply disabled people.

Transition

The Action Plan for Disabled People foresees a change in the function of special employment centres towards training centres for transition to ordinary employment.

NEW FORMS OF EMPLOYMENT

ONCE (the Spanish Organisation of Blind Persons) has been instrumental in promoting new forms of employment for disabled people. ONCE established a foundation (Fundacion ONCE) in 1988, involving representation of different groups of disabled people. The first goal of the foundation it to provide employment for disabled people and almost 50 per cent of its budget is devoted to this aim. In 1989, the foundation created a limited company FUNDOSA GRUPO which is the head company of more than 60 limited companies. According to de Lorenzo (1997) the firms within the group employ almost 6,000 workers, of whom 72 per cent are disabled people occupying posts at all levels. Nearly 70 work centres operate in diverse economic sectors, including laundry, retail sales in hospitals and community centres, telephone marketing, food production and data processing.

SUMMARY

The Constitution of 1978 explicitly refers to the rights of people with physical, mental or sensory disabilities to work, to complete self-fulfilment and to total social integration. Employment policy for disabled people dates from 1982 when comprehensive legislation, based on UN declarations on disabled people's rights, specified the state's responsibilities for prevention of disability, education, rehabilitation, social security and the guarantee of minimum economic and social rights, as well as for vocational rehabilitation and integration at work. For the purposes of the 1982 Social Integration Act, the term 'disabled person' means any person whose possibilities of participating in education, work or social activity are reduced as a result of a physical, mental or sensory impairment, whether congenital or not, which is likely to be permanent.

Responsibility for policy lies with the Ministry of Labour and Social Security and for services with its national employment institute, INEM, but functions increasingly are devolved to the autonomous communities, despite previous attempts to standardise the administration of services. Disabled people are only one of a number of 'disadvantaged groups' in the labour market for whom special measures apply, notably training initiatives and financial incentives for employers. Beneficiaries of INEM training and placement services must be registered disabled and unemployed, and have a reduction of capacity for work of at least 33 per cent. The number registered is low.

The law forbids any form of discrimination in recruitment or in the course of employment on grounds of reduction of capacity. The offence is punishable by fine, but although many cases go to arbitration very few injunctions are granted. There are special provisions to ensure the reinstatement of workers who become disabled. The quota system, introduced in 1983, required public and private employers of over 50 workers to reserve two per cent of their jobs for registered disabled people whose capacity for work is reduced by one third or more. The available evidence suggests that this requirement has never been complied with, despite the introduction, in 1988, of penalties for infringements of the obligation. For government employees the quota is set at three per cent but research concludes that as the quota for public administration employees is rarely complied with and that private companies have little or no compunction about not complying with their lower quota. Proposals awaiting approval are for an increase of quota by the year 2000 for both private companies and civil servants. An additional proposal is to allow companies the alternative of donating to a Fund to encourage the inclusion of disabled workers in open employment.

Grants paid to employers as recruitment incentives have had some degree of success, particularly among very small employers, although the amount of the grant has not been raised since 1984. However, it is proposed to raise the grant by 50 per cent and disabled people are now the only disadvantaged group for whom this grant is payable. Employers may also claim substantial reductions in social security contributions for disabled workers. Fiscal incentives have been introduced, offering a tax reduction to companies for a year-on-year increase in the number of disabled employees. However, it is suggested that the financial incentives available are insufficient to encourage compliance with the quota requirements, with the majority of recruitment subsidies granted to small firms without the quota obligation.

Grants to disabled employees are payable only to those suffering from toxic syndrome but the number of self-employed disabled people taking advantage of financial support increased considerably in 1994.

Employment in sheltered workshops has developed since it was regulated by the 1982 Act, with over 11,277 disabled workers in 403 workshops by 1994. Home-working is not allowed and there are no other forms of non-mainstream employment. People are steered to sheltered work after multi-disciplinary assessment. Over 80 per cent of employees are mentally disabled. Workshops offer either work or training contracts. They can be run by public, private or voluntary bodies. The state provides wage-cost subsidies, technical assistance subsidies and grants to make alterations to the job or workplace. Workshops are exempt from employers' social security contributions. There is no information about their role in facilitating transition to open employment.

In 1995 the labour force (workers aged between 16 and 65 years) was 31,841,200 with a working population

of 15,564,900 representing an activity rate of 48.9 per cent (36.1 per cent for women and 62.6 per cent for men). A 1986 national survey, using the International Classification system, found workers in ordinary employment with a disability numbered 574,226, and with a handicap 149,944; the number with a handicap seeking work was 87,640.

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SWEDEN

POLICY AND INSTITUTIONAL CONTEXT

Disability policy and legislation

In 1976, the Swedish government formulated the political goal concerning disabled people: 'to make society accessible for all, to provide disabled persons the opportunity to participate in the social community and to live in a manner, to such a degree as possible, equivalent to others' (Swedish Handicapped Institute, 1984). During the 1960s and 1970s, perceptions of disability and disabled people began to change. Organisations both for and of disabled people were established and organisational networks developed. During this period, laws and ordinances developed with the intention of improving the conditions within the workforce, including conditions for disabled persons.

Sweden has had no general law aimed at asserting the rights of disabled people. Typically, integration is secured by inserting special paragraphs in provision. Sweden has recently introduced a Disability Ombudsman, and it is likely that anti-discrimination measures will be introduced.

The aim of Swedish disability policy is full participation and equality for all of its citizens. People with functional disabilities must have the same opportunities as others for participation in community life. Responsibility for achieving this objective is borne by the whole of society, but ultimately by the state, local authorities and county councils (Swedish Institute, 1995). Policy for employment of disabled persons is tied to wider labour market and social policy concerns.

Employment policy

The centrality of employment to Swedish policy is reflected in the linkages between employment and other programmes - notably social security. Hence, in relation to the whole labour force, employment policies and strategies are seen as having priority over passive handouts. Such an approach is illustrated by recent attempts to reduce numbers receiving long-term sickness benefits and disability pensions. Facilitating early return to work has become a major policy objective with an important economic rationale (Westerhäll, 1996).

Swedish labour market policy is based on the fundamental principle of universal entitlement to work. Employment must provide a material livelihood and is important for self-sufficiency, as well as central in attaining social citizenship and a feeling of self-worth. That all sections of the population have the same rights to employment is considered a reasonable requirement for equality and is termed the 'activity principle' (Lindbom, 1995).

Employment policies for disabled people are seen as part of general labour market policies; vocational services, for example, are incorporated into the realms of labour market policy, not social policy. Although 'Work for All' has been the traditional aim of Swedish employment policy, rising unemployment levels have reduced chances of obtaining employment (Swedish Institute, 1995) and the traditional Swedish labour market policy model is being tested under entirely new conditions (National Labour Market Administration, 1994/5). The policy response has been to place high priority in labour market measures on young people, ethnic minorities, and disabled people, as well as those experiencing long-term unemployment, either via specialist measures or by specifying requirements of existing provision. Objectives have been laid down by Parliament and Government in relation to the operation of the National Labour Board to increase representation in mainstream programmes; namely, that the proportion of long-term jobseekers, young people, non-Nordic citizens and disabled people in labour market measures must be larger than their proportions of (all) jobseekers ready to take on a job. There are also attempts to increase the representation of certain disadvantaged groups within sheltered provision.

The Swedish Government has recently declared a policy of halving unemployment, and in the spring of 1996 the Government's Labour Market Policy Research Committee submitted proposals to increase the efficiency of labour market institutions and measures with a view to reducing long-term unemployment (Swedish Council for Work Life Research, 1996).

Evolution of disability employment policy

There has been no civil rights approach to employment legislation, and Sweden has eschewed the quota approach that operates in some European countries. This is not to ignore that there are targets and quotas in relation to some sectors and programme provision. Specific, less embracing pieces of legislation exist with the aim of integrating disabled persons into the workforce.

There is a legal requirement to adapt working conditions to meet the needs of disabled employees. A further legal obligation is that workplaces be accessible, requiring that any architectural barriers be removed.

There are signs that major changes to disability employment policy are underway. As already noted, Sweden has recently introduced a Disability Ombudsman - an innovative measure in the Swedish context. The country is also watching closely the experience of the UK's Disability Discrimination Act, with a view to introducing its own legislation against the discrimination of disabled people in the labour market.

Policy-making and implementation

Co-ordination of policy

In Sweden, the main responsibility for delivery of vocational services for disabled persons lies with labour market authorities. In broadest terms, the National Labour Market Board is responsible for the co-ordination and development of labour market policy, in keeping with the guidelines laid down by the government and Parliament.

At the national level of policy co-ordination, the Director Generals of the National Labour Market Board, Board of Occupational Safety and Health, National Social Insurance Board, and National Board of Health and Welfare have met regularly since 1989.

Beneath the National Labour Market Board are:

- 23 County Labour Boards in general charge of labour market policy at the county level
- 360 Employment Services Offices responsible for customer services to all jobseekers and employers. Employers and Social Insurance Offices are responsible for the vocational rehabilitation of disabled people who are gainfully employed.
- 100 Employability Institutes (Ami) and a number of local branches around the country which, in addition to providing mainstream services, offer specialist counselling and vocational preparation for the occupationally disabled people at 50 Institutes. Some 20 of these Ami institutes offer services solely for disabled people (MISEP, 1995). Ami offer vocational guidance, occupationally orientated rehabilitation and job preparation to a large group of disabled people before they enter other kinds of programme. Ami institutions may specialise in certain kinds of disabilities.

The organisation of local Employment Services Offices and Employability Institutes, and the working relationships between them, differ across the country.

Working Life Services is a consultative programme providing rehabilitation services which are purchased by Social Insurance Offices and employers, for individual employees who are still unemployed.

Social partners and organisations of disabled people

Sweden is a very 'organised' country with strong unions, and influential organisations of disabled persons; these social partners can be seen to have influence on labour market affairs. The Swedish disability movement, for example, has a membership of 470,000, comprising 40 national organisations, and 2,000 local associations which are under the control of disabled people themselves. The National Labour Market Board and the County Labour Boards have delegations for vocational rehabilitation on which are representatives of the social partners, organisations of disabled people, social insurance agencies, labour market training bodies, SAMHALL and suchlike. They discuss matters relating to labour market issues and measures of concern to disabled people.

SAMHALL, the limited liability company that deals with semi-sheltered employment within Sweden, consults with labour market authorities at national, regional and local levels. At the national level, for example, discussions concern the regional distribution of SAMHALL job opportunities. At the central level, SAMHALL has a reference group with representatives of organisations of disabled people. Regional SAMHALL companies have established advisory councils with representatives of the regional branches of

the Swedish TUC, the Swedish Central Organisation of Salaried Employees, Swedish Employers Confederation, Swedish Association of Local Authorities, National Social Insurance, County Labour Market Board and the County Councils.

DEFINITIONS OF DISABILITY

The Swedish view of disability and handicap is defined in several government propositions and Acts of Parliament. A disability is not looked upon as a characteristic of a person, caused by injury or illness, but as a relationship between the person and the environment. This definition is similar to the definition of handicap formulated by the WHO in that it shifts the disability from individuals to their environment.

The concept of occupational disability is used in conjunction with labour market measures. Thus, a jobseeker has an occupational disability if, as a result of impairment, medical condition or illness of a physical, mental, or intellectual or social nature, he or she has, or is expected to have, difficulties in obtaining or retaining gainful employment. Occupationally disabled persons qualify for special supportive measures, and an employer hiring such persons can obtain grants and subsidies. It is only when the disability entails an impediment in relation to a certain kind of work that reference can be made to an occupational disability.

For SAMHALL, occupational disability can be described as the relationship between the individual's physical, mental, intellectual and 'socio-medical disability' and the organisation of the work environment in the broadest sense.

STATISTICS

The population of Sweden is about 8.8 million (MISEP, 1995). Total labour force participation in 1995 was 4,266,000, and there were 339,900 unemployed persons, of whom 316,700 were registered unemployed in April 1995.

The Swedish labour market has traditionally had high participation rates, low unemployment and active labour market policy. Since 1990, however, unemployment has increased sharply; jobseekers rose from 220,000 (March, 1990) to 900,000 (December, 1995).

The number of occupationally disabled people who are unemployed has increased rapidly. The monthly average in 1991/2 was 20,200, but by the end of 1995 this was 54,200. (Persons taking part in labour market programmes are not included in this statistic.) Of these 54,200 persons, 48,300 were unemployed, but only 13,400 were ready to enter employment - the rest required some kind of preparatory measure.

Figures from 1991 suggest 70 per cent of those registered occupationally disabled are physically disabled, which includes physical and somatic work obstacles such as heart, vascular and lung diseases. Individuals with socio-medical disabilities constitute about 18.5 per cent, and those with mental and intellectual disabilities ten per cent and three per cent respectively (quoted in Labour Board Employment Counselling No.3, 1991).

EMPLOYMENT SUPPORT SERVICES

A number of job creation measures exist in Sweden, organised under the National Labour Board. In relation to assessment, guidance and training, the Labour Market Administration is responsible for work testing, work training and work guidance. This can be considered in two parts. Assessment and guidance take place in

institutes known as Ami institutes, while training takes place under the organisation of AMU. These points are elaborated below.

Mainstream provision

The government requires that the percentage of occupationally disabled participants in labour market measures must be larger than the share of unemployed jobseekers generally. In the last quarter of 1995, occupationally disabled people constituted 11.2 per cent of measures (excluding wage subsidies and sheltered employment), while occupationally disabled groups constituted 10.3 per cent of unemployed jobseekers.

Mainstream measures used by occupationally disabled people include the Workplace Introduction, Work Experience and public temporary employment schemes. These subsidised job creation schemes are described in a later section on financial measures.

Vocational assessment and guidance

The Vocational Assessment Rehabilitation Institutes (Ami) have, since 1980, been responsible for measures relating to vocational rehabilitation assessment and guidance. There are about 100 Ami organized county offices and a number of local branches, reflecting attempts to decentralise vocational rehabilitation services (MISEP, 1995). Referrals to these Employability Institutes (or Ami) come from the mainstream Employment Service. Some Ami work in a consultative manner, giving advice to the Employment Service, with less contact with jobseekers. Others have taken over all services from the employment office.

Historically, two types of Ami have offered counselling and vocational rehabilitation services. The first type, mainstream Ami, are open not only to persons with different kinds of disabilities but also to all those needing counselling and guidance in relation to career choice and development. Secondly, in addition to these, there are seven institutes known as Ami-S which have resources for certain categories of disabled persons. Ami-S type institutions aim ‘....to meet the needs for the visually handicapped, the hearing impaired, the physically disabled, and persons with intellectual, mental and socio-medical occupational handicaps’ (National Labour Market Board, 1987 p.2). Ami staff consists of employment counsellors, psychologists, health care personnel, physiotherapists and social workers. Table SW.1 shows that over 70 per cent of jobseekers at Ami institutes were occupationally disabled in 1994/5.

The aims of Ami-S in integrating disabled people into the workforce are the same as those for Ami, namely:

- enabling jobseekers to find, obtain and retain employment, primarily in the regular labour market
- eliminating recurrent difficulties to the greatest possible extent and improving preparedness for new problems.

The target group is ‘Jobseekers who, on account of their handicap in relation to the demands - short term and long-term - at the labour market, need special resources in order to find, obtain and retain employment’ (National Labour Market Board, 1987, p.5). Only if it is deemed that mainstream Ami services are not sufficient and individuals need special resources in order to find, obtain and retain employment, will there be a referral to an Ami-S institute. A wide variety of measures including vocational and educational information, work experience and training, and workplace modifications may then be used.

Most of the Ami institutes now have integrated specialist services, most frequently for people with socio-medical or psychological problems, but some have integrated specialist teams for people with physical or intellectual difficulties. The number of Ami-S

institutes has reduced in line with decentralisation aims.

In 1993/4 an average of 2,100 individuals with occupational handicaps left Employment Services/Ami institutes each month for a job, compared to 1,600 in 1991/2.

Table SW.2 shows the employment situation of individuals one year after leaving Ami institutes.

Vocational training provision

AMU, labour market training centres, provide the majority of the vocational training. The AMU are separate from Ami Institutions. Training is purchased from various providers by labour market authorities, most is provided by AMU and takes place at Employment Training Centres.

Before 1986, primary responsibility for labour market training was jointly held by the Swedish National Board of Education and the National Labour Market Board. The need for reform was, however, recognized in 1980s. The Government decided to create an independent authority to administer employment training in order to secure a greater measure of financial responsibility and accountability. The AMU Centres were therefore reorganized and brought together under the autonomous body, the AMU group, constituting a central board with 23 regional agencies. AMU employs 7,000 people and encompasses 100 training centres, offering training, consultative services, organisational analysis, evaluation and skills analysis, and teaching aids across nine major occupational groupings.

Table SW.1 Jobseekers with training allowance at Employability Institutes (Ami)

Status	Year		
	1992/3	1993/4	1994/5
Jobseekers with training allowance at Employability Institute (average per month)	8,121	6,451	7,986
of whom occupationally disabled	4,627	4,610	5,786
percentage occupationally disabled	57	70	72
Jobseekers with training allowance who have left Employability Institute (average per month)	2,439	2,297	2,779

Table SW.2 Employment situation one year after leaving an Ami institute

Employment situation	Disabled persons %		Non-disabled persons%	
	1992/3	1993/4	1992/3	1993/4
Work without subsidy	7.6	7.5	19.3	20.0
Wage subsidy	12.8	16.7	0.8	1.0
Public sheltered work	0.8	0.9	0.2	0.2
SAMHALL	5.1	7.3	0.5	0.8
Total to work	26.4	32.4	20.7	21.9
Employment training & education	11.2	10.5	17.7	17.7

Labour market measures	7.3	5.8	10.5	9.4
Unemployed	35.3	33.9	38.3	39.1
No data	19.8	17.4	12.9	11.8
Total %	100	100	100	100
Total number	18,535	21,590	14,450	9,818

Employment training takes the form of courses which are either specially purchased from the various providers by the County Labour Boards or draw on the capacity of the regular education system. Most purchased courses are acquired by the Employment Training Group (AMU) and take place at special Employment Training Centres. Since 1986, AMU has changed from a grant-receiving to a revenue-based organisation which sells its services to regional labour market boards. Regional Labour Market Boards are free to buy from other competitors, such as universities, secondary schools, industry and private educational institutions. The aim of this is to provide flexible services to suit customer needs. Although the public Labour Market Boards have traditionally been major customers of AMU's services, the Boards in the early 1990s increased their purchases of training services from other suppliers.

Disabled persons in need of vocational education, retraining, counselling or other forms of vocational rehabilitation receive allowances under the Labour Market Ordinance (SFS 1966:368, Sections 15-26) for the duration of their training/rehabilitation.

In 1995 over 27 per cent of those taking part in training and education in regular education system with allowances from Employment Services were occupationally disabled.

Table SW.3 Number of disabled jobseekers in labour market training and their proportion of the total, 1990-1995

Year	Number	% of total participants
1990	9,500	25.1
1991	10,900	18.5
1992	12,800	14.8
1993	8,700	16.3
1994	8,000	13.5
1995	7,400	13.5

Source: National Labour Market Board

Many adults with functional impairments still have gaps in basic schooling. Opportunities exist for taking part in adult education arranged by municipalities, study associations and folk high schools (Swedish Institute, 1995).

Working Life Services

Working Life Services aims at quicker rehabilitation of individuals. The organisation consists of 325 employees in a revenue-financed, consultancy group operation. Most of its employees have previously

worked in Employment Service Offices or Employability Institutes. Clients in 1993/4 were 68 per cent Social Insurance Offices, 12 per cent county municipal agencies, seven per cent private, and five per cent manufacturers.

Working Life Services offers occupational guidance and career planning; personal assessment and testing; information on labour market and education and training; work assessment; functional assessment; adaption at workplaces; guidance and education in personal development and rehabilitation issues.

Training and transition

Since the late 1980s, there have been attempts to increase the number of young disabled people placed by Labour Market Services (Abrahamsson and Alm, 1995).. These included attention to young people in receipt of disability pensions, those utilising SAMHALL, the operation of wage subsidies, and induction schemes. Further measures included those for pupils, and work practice for young persons aged 18 to 24.

Since 1990, co-operation between schools and placement services has increased and individuals get information and guidance aimed at easing the transition. Disabled youths are granted access to the full array of resources and services provided by the ES and Employment Institutes, even in compulsory school, normally commencing at grade 8 (Lindbom, 1995).. The latter came as the result of a trial project (1991) that targeted youths below 25 and gave them chance to try working in a field of interest for six months. At school, individuals have the right to work aids and personal assistance if taking part in a work experience programme. As Lindbom (1995) notes, the activity principle applies equally to disabled youths and others. Recent Ministry of Labour statistics report that those aged up to 30 years are offered guidance, assessment, vocational training, education, and work experience; 1,410 young disabled people took part from July to December 1995, and of those 843 got a job, practice, or training and education; 782 took part in the programme and 105 participated in 'guidance weeks'.

All universities and many university colleges apply the programme 'Disabilities and higher education' with the objective to offer students with disabilities the support they need for studies. Similarly, the academic trainee scheme is where individuals aged 25 to 29, holding an academic degree, have opportunities for work trials and receive an additional allowance.

Supported employment

Supported employment was established on a job trial basis (SIUS) in 1993. This form of employment involves employment of a support person, a 'job coach', who is subsidized up to 100 per cent of wage costs. Projects are operating in nine counties. A follow-up report at the end of 1995 by the National Labour Board, reported that there were about 100 job coaches, and about 500 disabled jobseekers in 50 different local SIUS projects. The target group is those with severe functional impairments. One-third of participants had either gained employment (with wage subsidy) or were negotiating employment.

GALAXY

GALAXY was formed by an organisation of employers in the construction and building industry together with some big construction companies. The aim is to provide vocational rehabilitation for occupationally disabled construction workers through work adjusted to their special needs. There is an agreement with the labour market authorities that wage subsidies will be granted for them. Numbers increased from 328 persons in 1987 to 1,180 in 1995. Between 1986 and 1995, 25 per cent of the 1,981 who left GALAXY went to

non-subsidised jobs, mostly in construction and building.

OPEN EMPLOYMENT: LEGAL OBLIGATIONS AND RIGHTS

There are, as yet, no comprehensive legislative measures with the expressed aim of combatting discrimination against disabled persons. No quota type measures exist in Sweden. There are, however, a number of legislative measures that have as their aim the integration of disabled persons within employment.

Disability Ombudsman

A recent development is the establishment in mid-1994 of the Disability Ombudsman Office, to look after the interests of disabled people. The rights and duties of the Office are set out in the Disability Ombudsman Act (SFS, 1994: 749). The Ombudsman monitors issues relating to the rights and interests of disabled people, and lobbies government about the defects and limitations of legislation. The Ombudsman reports annually to Parliament. In the first year, the Office dealt with over 1,000 cases; and 10.6 per cent of telephone enquiries concerned employment issues. The Office has called for stricter legislation and for powers for the Ombudsman to litigate in cases of discrimination affecting disabled people at work.

Consultations are now underway on proposals for new legislation to counter discrimination against disabled people in working life. The intention is that this legislation be both comprehensive and a quick route by which disabled people can obtain redress. One suggestion is that the implementation of such measures be supervised by the Office of the Disability Ombudsman.

Requirement to accommodate

The Work Environment Act (SFS 1977: 1160, amended SFS 1991:677) legally obligates employers to adapt working conditions to individuals' physical and mental requirements. The legislation is constituted as a so-called 'frame law', which means it is supplemented with agreements worked out between the employers' unions and the employees' unions.

The Act makes provision that 'Working conditions shall be adapted to people's differing physical and mental aptitudes' (chapter 2, section 1). It goes on to state: 'Technology, work organisation and job content shall be designed in such a way that the employee is not subjected to physical or mental strains which can lead to illness or accidents. Forms of remuneration and the distribution of working hours shall also be taken into account in this connection. Closely controlled or restricted work shall be avoided or limited' (section 3).

'Furthermore, the employer shall ensure that a workplace included in his activity has a suitably organised scheme of job modification and rehabilitation for the discharge of the duties incumbent on him under this Act and under Chap. 22 of the National Insurance Act, 1962: 381' (chapter 3, section 2a).

The second major legal obligation is to remove architectural barriers. Accessibility to the workplace is a vital component in being able to achieve integration into the workforce. The building by-laws deal with the accessibility and utility of buildings for persons with functional disabilities. According to Statute 42a, which was established in 1966, dwellings for permanent residence, public locations and working quarters shall be designed so that they are accessible and can be utilized by persons with decreased movement and/or decreased sense of orientation. Structural alterations are governed by these building by-laws (42a) also and state that reasonable demands for adaptation shall be complied with. The precise accessibility stipulations are to be found in the Swedish Building Standards (Swedish Handicapped Institute, 1984).

The Planning and Building Legislation (SFS 1987: 10 Chap 3, S7) stipulates that buildings which contain dwellings, workplaces or premises accessible to the public must be designed so that they can also be used by persons with reduced mobility and orientation-ability.

Employment protection

The 1974 Security of Employment Act (amended SFS 1984:1008) is intended to give all its employees increased job security; disabled persons, however, are entitled to special protection under its provisions. The act lays down that notice of dismissal must be objectively grounded and that if such grounds do not exist it is reasonable to demand that the employer provide other work within his enterprise for the employee. Illness and reduced working capacity are not normally considered to be objective grounds for dismissal. The act makes provision concerning the order in which workers are to be given notice and laid-off. Sheltered employment is not covered, as individuals located within these establishments are expected to accept work on the open labour market when it is offered. If dismissal is due to circumstances related to the employee personally, it must not be grounded in circumstances which were known to the employer for more than a month before notice of dismissal was given. Section 23 gives the order of priority in the event of notice of termination or lay-off being served: 'Notwithstanding section 22, priority for further employment shall be granted, unless there are special reasons for the contrary, to disabled employees who have been provided...with special employment in the employers service'.

Provision to encourage retention and return to work

There have been significant changes to rehabilitation. As Wadensjö and Palmer (1996) note, '....the trend of recent years has been to make more resources available for rehabilitation, while at the same time goals have been set to reduce benefit payments by returning persons to the workplace'.. Facilitating early return to work has become a major policy objective (Westerhäll, 1996). During the 1980s, absence from work increased considerably; between 1980 and 1990 the number of persons receiving supplementary disability pension or sickness allowances for over a year rose from 311,000 to 436,000. The policy response in the early 1990s was to reduce benefit levels and increase the responsibilities of employers and individuals to achieve quicker return to work. Until 1992, social insurance officers were not legally required to co-ordinate rehabilitative efforts of medical and vocational professionals. Considerable resources (2,000 staff) have been transferred for rehabilitation and administration purposes (Palmer, 1994).

About SEK 500 million annually will be diverted from sickness benefit funding to the procurement of rehabilitation measures. In this way, the social insurance offices will be able to purchase rehabilitation services from various producers, thereby limiting the duration of sicklisting and helping the sick or disabled individual return to work more quickly. This attempt to speed up rehabilitation and move from passive to active provision reflects the wider Swedish philosophy discussed earlier.

The Government proposition 1990/91: 140 'Working environment and rehabilitation' forms the ground for the new rules about rehabilitation in chapter 22 in the National Insurance Act, which came into effect in January 1992. Under its terms, the employer is primarily responsible for identifying and determining the need for rehabilitation, for ensuring these measures are introduced, and for financing them. This may include various things: modifications of workplaces, changes in work tasks, redeployment, change in working hours, job testing and job training, education. Financial responsibility is, however, limited to measures that can be taken within, or in consultation with, the framework of the companies' operations. The amendments are supplemented by the operation of the Work Environment Act, which requires the employer to ensure that suitably organised job modifications and rehabilitation activities are conducted at the workplace.

Those participating in occupationally orientated rehabilitation are entitled to rehabilitation compensation in the form of rehabilitation payments to cover loss of income due to participation, and special contributions designed to cover certain expenses that arise. Rehabilitation benefits are paid at the same rate as the benefit payable before the period of rehabilitation, whether sickness, unemployment or disability benefits. A person entitled to sickness benefit who needs rehabilitation receives a rehabilitation allowance when taking part in active rehabilitation, such as work tests, training, education and training. Those aged 16 to 64 in receipt of disability pension receive 100, 75, 50 or 25 per cent, dependent on the extent to which their working capacity is reduced. Further disability allowances cover extra costs.

According to Westerhäll (1996), changes to rehabilitation policy are moves in the right direction; social insurance offices now initiate more and quicker contacts with long-term, sick-listed people. She believes, however, that there should be more specific responsibilities for employers in the legislation, as well as penalties to encourage compliance. At present employers have four weeks to investigate rehabilitation requirements, and eight weeks to transfer responsibility to social insurance office. Hetzler (1994) stresses how vocational rehabilitation requires changes to workplaces as well as to individuals, and how women may be particularly marginalised in the rehabilitation process.

Since 1990, Social Insurance Offices have been able to purchase vocational rehabilitation services from public and private providers of such services. The Social Insurance Offices bought training and rehabilitation services from AMU group for SEK 60 million in 1995.

Employment promotion

The measure that deals with employment promotion is the 1974 Act Concerning Certain Employment Promoting Measures (amended SFS 1985:222). This Act contains provisions that aim to increase opportunities for older and disabled persons to both obtain and maintain employment.

The section 'Measures to promote the employment of older and disabled employees' states, 'to such extent as it considers necessary, a county employment board may order an employer to provide information on:

1. the size of his labour force and its composition in terms of the age, nationality and principle duties of the employees concerned;
2. the number of disabled employees; and
3. impending changes in the labour force, such as notices of termination, lay-offs, transfers or vacancies which will give rise to new employment.

The order may be combined with a fine in the event of non-compliance'.

The employer must also have discussions with the county employment board (paragraph 8) which can, 'issue instructions to the employer in connection with the measures to be taken to provide better employment opportunities for older or disabled employees' or 'direct the employer to increase the proportion of such employees in his labour force' (section 9). Ultimately the issue can be referred to the Employment Market Board which is able to levy a fine or insist that the company may not recruit any employees bar those referred from the Employment Service (sections 11-12).

The Working Life Fund

The Riksdag (Parliament) passed a Law (1989:484) stating that a temporary duty was to be imposed on employers from September 1989 to December 1990, making it mandatory to pay 1.5 per cent of the

company's/administration's total wage sum to a Working Life Fund. This was used for:

- rehabilitation measures for employees with long term impaired health
- measures to reduce sick leave absence
- investments for working environment improvements which are not mandatory for the employer due to other laws or regulations.

Most of the projects sought to change work organisation and to broaden job contents in order to remove monotonous jobs, increase the influence and self-management of the employees, improve the physical working environment, and rehabilitate long term absentees. The Working Life Fund had a philosophy of early return to work.

The Swedish Working Life Fund distributed SEK 11 billion in five years to around 25,000 workplaces programmes. Discussing the impact of five projects funded using such finance, Högåås (1994) notes that 106 out of 179 individuals were rehabilitated for new work assignments, at a cost of SEK 4 million, with a yearly return of SEK 32 million. Savings for employers stood at SEK 14 million, those for the social security system, SEK 18 million.

The organisation was gradually liquidated (as the money was spent) and ceased as from 1 July 1995. The Government has instructed the National Institute for Working Life to follow up and evaluate the Working Life Fund.

PERSUASION POLICIES

There have been employer-led attempts to bring about shifts in attitudes through campaigns. The 1994 campaign Going for Growth (Swedish Employers Federation, 1995a) stressed that competition, profitability and skills, did not preclude employment of disabled people. The publication made the point that 'People with occupational handicaps have meaningful jobs in business and industry, and ample opportunities of developing their skills'. In relation to employing disabled people in companies, the campaign notes that functional disability is a relative concept, and stresses the importance of changing opinions. Emphasis is on compensating employers and on how government should refrain from regulating job opportunities via legislation. Employers, they believe, must be able to recruit on the basis of skills and experience they require. The Federation comment on how recent years have seen the implementation of several reforms involving greater responsibility being laid on employers.

A related publication, 'Disabled but Able' (Swedish Employers Federation, 1995b) aimed to increase companies' interest in creating job opportunities for disabled people and to show that disability is a relative concept. The publication gives examples of how technology might assist in creating job opportunities and outlines the forms of state support that are available. Underpinning its recommendations is the suggestion that social responsibility and profitability can go hand-in-hand.

OPEN EMPLOYMENT: FINANCIAL MEASURES

In Sweden there are both special subsidy and grant schemes for occupationally disabled persons and mainstream measures in which disabled people may participate.

Special subsidies and grants

Wage subsidies

These are available under Ordinance SFS 1984: 519 and are paid to procure employment for occupationally disabled persons for whom no other placement measures are available. This measure has applied since 1980, in both the public and the private sectors.. Under this provision subsidies are payable to the employer. The trainee is employed and receives wages and employment benefits in accordance with collective agreements. Table Sw.4 shows that the average number receiving wage subsidies remained fairly static between 1987 and 1994 but rose in 1995.

Table Sw.4 Average numbers receiving wage subsidies, by year

Year	Number
1987	42,800
1988	44,400
1989	43,900
1990	45,000
1991	44,500
1992	42,600
1993	42,600
1994	46,400
1995	49,600
1996	46,200

Source: National Labour Board Statistics

In the 1980s, wage subsidies were decided according to category of employers; government agencies received 100 per cent, voluntary employers 90 per cent, and municipal and private employers between 75 and 25 per cent. A flexible subsidy was introduced at the beginning of the 1991/2 fiscal year, with subsidies paid for four years in the first instance. Under this new arrangement, the subsidisation rate depends on the disabled employee's work capacity in relation to the demands of the job, and is unaffected by the sector of the employer. The subsidy compensates for a reduced working capacity due to a disability. The aim is to phase out the subsidy as work capacity increases. During 1994/95 the average subsidy level was 72.5 per cent. Table Sw.5 shows average subsidies for different employer categories.

In 1994-95 more than 20 per cent of those who left jobs with wage subsidies began non-subsidised jobs in the open labour market. From July 1995, the maximum subsidy is 80 per cent of a monthly wage to the maximum of SEK 13,700. For severely disabled persons up to 100 per cent can be paid. Maximum wage is still SEK 13,700 per month. In 1995, nearly 50,000 disabled people were in subsidised employment.

A disabled person with a wage subsidy may be employed on a part-time basis and at the same time receive disability benefit from social insurance office.

Public sheltered employment

A particular type of subsidy was introduced in 1985 (SFS 1985: 276) to replace temporary work relief for individuals with socio-medical problems, mainly drink and drug related (Samoy and Waterplas, 1996). Often known as public sheltered employment, this provision allows job-applicants with socio-medical

Table Sw.5 Average subsidy levels for persons remaining in flexible wage subsidy programme

Employer category	Mid-1993		Mid-1994		Mid-1995	
	No.	Subsidy level %	No.	Subsidy level %	No.	Subsidy level %
State authorities	1,546	93.4	4,175	93.5	4,090	89.9
similar institutions	76	92.3	316	92.4	316	91.0
Social insurance offices	172	94.8	292	97.5	275	94.0
Public utilities	5,966	84.5	15,433	86.5	16,982	85.6
Municipalities	3,149	46.6	5,734	50.6	6,265	53.0
County councils	1,108	39.0	1,875	41.5	1,549	44.5
State-owned enterprises	66	48.5	88	59.8	72	67.9
Private companies	8,515	61.4	14,496	64.2	18,346	65.9
Other employers	164	74.7	1,594	65.8	2,096	65.2
Total	20,762	67.4	44,003	72.5	49,991	72.6

Source: National Labour Board Statistics

disabilities to obtain work with government authorities. The term public authority refers to local authorities, county councils and municipal federations. A stipulation is that work may not take the form of industrial production. The employer receives a government grant towards the wage covering up to 75 per cent of the total cost. As Table Sw.6 shows, the numbers using this provision have remained steady over the recent years. Sheltered employment with public employers opened to new groups in 1994; people with intellectual disabilities and mental illness. Jobs are at the disposal of Employment Services and Ami institutes.

Table Sw.6 Public Sheltered Work (OSA)

Year	Number
1988	5,800
1989	6,000
1990	5,700
1991	5,400
1992	5,600
1993	5,700
1994	5,100
1995	5,400

Source: Ministry of Labour, 1996

Grants and aids

The Employment Office may award grants for the purchase of technical aids and devices if needed for the individual to obtain and perform a job. These are payable at rates of up to SEK 50,000 (SFS 1987:409). These are payable to the employer and may include, for example, adaption to premises, entrances, communications, provision for technical aids and grants for a work assistant (for example, a sign language interpreter for the deaf or a subsidy for seriously disabled people who need assistance in the workplace). For

those already in employment, since 1991 Social Insurance Offices administer grants for technical aids. The level of grants is similar and employers or a disabled person entering employment can each receive grants for technical aids up to SEK 50,000. Table Sw.7 shows grants given in 1993/4 and 1994/5.

Subject to a means test, a grant of up to SEK 35,000 is payable towards the cost of buying a new car necessary for vocational training. A non-means-tested grant is available in order that the car may be modified in order to be driven (the provisions for this were initially set out in SFS, 1987: 410). The responsibility for car grants has now gone to social insurance offices.

Table Sw.7 Number of grants issued

Purpose of grant	Year	
	1993/4	1994/5
Technical aids	1,745	2,732
Adaption aids	-	438
Computers	442	584
Assistance	439	397

Source: National Labour Market Board

Grants can be paid towards the cost of technical aids and workplace adaptation, interpreters at work, and grants towards the cost of assistance at work.

Self-employment

Under sections 57-58 of the Labour Market Ordinance, grants are available to disabled persons setting up their own business. Maximum grant payable is SEK 42,000. Persons already awarded 'start-up grants for the unemployed' can receive only SEK 30,000 in addition to that grant. The number of start-ups qualifying for business grants is less than 1,000. Increased stipulations concerning the viability of business ventures have probably reduced the number of start-ups.

Between 1986 and 1994, grant was SEK 30,000. As from July 1994 the maximum was SEK 60,000. A total of SEK 15.6 million was spent on grants to start businesses in 1994-95. The number of new registrations for start-up grants was 485 in 1993-94, and 774 in 1994-95.

Mainstream job creation

Public temporary employment

The purpose of public temporary employment is to counteract cyclical or seasonal unemployment or to provide work for elderly, geographically immobile workers, refugees and immigrants and occupationally handicapped unemployed workers who are unable to find any other job or training. It is usually arranged by the state and local authorities in public infrastructure projects although there has been a gradual shift towards more jobs in care, education and administration.

The duration is limited to six months. The subsidy paid to the employer usually covers up to 50 per cent of total wage costs but is limited to SEK 7,000 per day. In temporary employment involving public investments the grant is usually SEK 1,500 per day (MISEP, 1995).

In 1995 an average of 1,900 disabled people participated, representing 12.9 per cent of the total. In 1990, they represented 29 per cent of a total 2,400. Volumes have declined latterly because of greater use of other measures including the Work Experience Scheme.

Work Experience Scheme

The purpose of the programme, introduced in 1992, is to give people living on unemployment benefit the opportunity to participate in activities that promote the local community or businesses which otherwise would not have been realised. On the scheme, which lasts for six months, participants receive a training allowance paid at the same rate as unemployment insurance or assistance benefit. In 1995, 11.4 per cent of participants (4,700) were disabled jobseekers.

Table Sw.8 shows the numbers and porportion of disabled jobseekers in public temporary employment and the Work Experience Scheme.

Table Sw.8 Number of disabled jobseekers in public temporary employment and the Work Experience Scheme and their proportion of the total

Year	Public temporary employment		Work Experience Scheme	
	Number	Proportion	Number	Proportion
1990	2,400	29.1%	-	-
1991	2,600	23.8%	-	-
1992	2,800	17.9%	-	-
1993	2,000	14.3%	3,400	9.6%
1994	2,100	12.7%	4,500	10.0%
1995	1,900	12.9%	4,700	11.4%

Source: National Labour Market Board, 1997

SHELTERED EMPLOYMENT

Organisation and principles

SAMHALL is a government owned group of companies responsible for all the sheltered employment in Sweden. It was established in 1980 via the Sheltered Employment (Regional Foundations) Act (SFS:1979:47). It forms a major part of the Swedish labour market policy in relation to disabled persons. In July 1992 it became a limited company. The operating concept and the system of financing incorporate the idea that it is run in a manner not prejudicial to competing companies. SAMHALL, therefore, cannot undercut competitors' established market prices in order to maintain its volume of employment. SAMHALL consists of 24 county enterprises (legally speaking each enterprise is a foundation) each with an average of 14 workshops comprising 800 units in 300 locations.

Aims and target group

The operating concept of SAMHALL is 'to provide meaningful and vocational employment to persons with occupational disabilities, wherever the need arises'. When, due to an occupational disability, a person is unable to find employment in the open market, employment at the nearest SAMHALL company may be offered. The role of employment by SAMHALL is to strengthen the prospect of a disabled person finding

work on the regular labour market. All opportunities within the company are at the disposal of the Labour Market Board, and referrals are taken from local Employment Services Offices. The operations of SAMHALL fall clearly within the area of labour market policy. Although there is no specified lower limit of work ability, workers must be able to participate in at least half-time employment. Forty per cent of recruits must be from priority groups.

SAMHALL also offers rehabilitation service aimed at persons on long-term sick leave.

Activities

Many of SAMHALL's operations concern sub-contracting. Its activities are concentrated in industrial manufacturing, including furniture, graphics production and packaging. SAMHALL is also trying to diversify and develop in services and forestry. Of late, SAMHALL has been experiencing major structural change - furniture and consumer products have declined, while production of services has increased.

The 1995 Annual report identified four main target areas:

volume of work hours provided to occupationally disabled persons

number of transitions to employment with non-Group companies

proportion of recruitment from prioritized categories of developmentally impaired persons, persons with multiple disabilities, and persons with mental illness

financial results to reduce the amount of financial support needed from the state.

Employees

SAMHALL employees rose from 20,900 in 1980, to 29,000 at the end of 1995 (out of a total of 32,200 employees), as Table Sw.9 shows.

Table SW.9 Numbers of occupationally disabled employees of SAMHALL

Year	Number	Working hours (thousands)
1988/89	30,006	31,150
1989/90	30,434	32,110
1990/91	29,385	31,280
1991/92	29,191	31,580
1993	27,938	32,091
1994	28,990	33,664
1995	28,961	34,717

Source: SAMHALL Annual Report 1995

The average period of employment for all employees was eight years while total working hours have increased by three per cent. Wages at SAMHALL are based in normal agreements with the regular trade unions.

Financial arrangements

Forty-six per cent of SAMHALL's income is derived from its own sales and 54 per cent from State grants. One-fifth of revenue comes from exports, with exports doubling over the last four years. From 1992 onwards Parliament has made demands on SAMHALL, achieving certain performance targets including providing certain amounts of job opportunities (31.9 million hours per year) and improving economic results.

Cost-benefit analysis of SAMHALL activities is impressive. The positive difference, taking into account employer social security contributions (1996) is estimated at SEK 40,000-50,000 per extra job opportunity offered, provided that the inflow of orders is sufficient. In 1995 the marginal cost of one extra job was SEK 110,000, which was over SEK 61,000 less costly than benefits. It is estimated that a loss of 3,000 SAMHALL jobs will cost the state SEK 60 million a year (Annual Report, 1995).

A survey of employees outlined in the 1995 Annual Report gave positive feedback on SAMHALL's activities. Similarly, a survey conducted by the Swedish Institute of Public Opinion Research showed that confidence in SAMHALL's manner of handling its assignments had increased, both among key interest groups and the public. The majority of the public thought SAMHALL should have more resources allocated to it.

Investments

The SAMHALL annual report 1990/1 focused attention on technical adaption within the work environment, the intention being to increase work input and job satisfaction and to provide SAMHALL with greater opportunities for employing more severely disabled workers. This perhaps indicates the difficulties of taking a purely quantitative perspective on evaluation to the neglect of more qualitative dimensions. In 1991 SAMHALL investments in technical improvements in the workplace doubled during the year to SEK 33 million.

Transition

At 30 June 1996, there were 28,461 occupationally disabled persons at SAMHALL. Three thousand were able and willing to move to open employment, but only 412 got the opportunity. In addition, more exercised a right to return to the employment of SAMHALL during the first year of transition. SAMHALL anticipates that these problems around transition are likely to continue. According to Samoy and Waterplas (1996) experience indicates that approximately 30 per cent of those leaving SAMHALL eventually rejoin the company (a 12 month re-employment guarantee is offered and a new transition may be tried after a failure to transfer to open employment). Performance indicators set targets of a three per cent transition to open employment each year. Table Sw.10 shows annual transitions.

Table Sw.10 Numbers of transitions from SAMHALL 1988-1995

Year	Number	Transitions	Number transitions (%)
1988/89	30,006	1,597	5.4
1988/90	30,434	1,337	4.4
1990/91	29,385	925	3.1
1991/92	29,191	633	2.2
1993	27,938	984	3.5

1994	28,990	1,372	4.7
1995	28,961	1,301	4.5

Source: SAMHALL Annual Report 1995

SUMMARY

The aim of Swedish disability policy is full participation and equality for all of its citizens. Policy for the employment of disabled persons is based on the fundamental principle of universal entitlement to work. Employment policies for disabled people are part of general labour market policies. Rising unemployment levels have reduced employment opportunities and the traditional Swedish labour market policy model is being tested under entirely new conditions. The government has declared a policy of halving unemployment. The government requires that the percentage of occupationally disabled participants in labour market measures must be larger than the share of unemployed jobseekers generally.

Disability and handicap are legally defined as a relationship between the person and the environment. The concept of occupational disability is used in conjunction with labour market measures. Only when a disability entails an impediment in relation to a certain kind of work can reference be made to an occupational disability. The number of occupationally disabled people who are unemployed increased substantially from a monthly average of 20,200 in 1991/92 to 54,200 at the end of 1995.

Sweden has no general law asserting the rights of disabled people but in 1994 a Disability Ombudsman was established to look after their interests and to lobby government on legislative deficits. Consultations are underway on proposals for legislation to counter discrimination against disabled people in working life.

Legislation promotes access to work for disabled persons by providing for workplace adaptation and the removal of architectural barriers, along with employment promotion and employment protection measures. The Working Life Fund, raised from a temporary levy on employers, was used to promote rehabilitation measures and working environment improvements.

Grants are available to assist the adaptation of premises and to provide for aids or to employ a work assistant. Grants are available for disabled people to encourage self-employment. Wage subsidies payable to employers to secure employment for disabled persons operate in the municipalities, counties and private sector; numbers rose in 1995. There is also wage-subsidised provision available in the non-industrial public sector for those with socio-medical disabilities. Disabled people also participate in mainstream job creation measures.

An important policy emphasis has been to encourage earlier return to work. The approach in the early 1990s was to reduce benefit levels and increase the responsibilities of employers and individuals to achieve quicker return to work. After 1992, social insurance officers were required to co-ordinate rehabilitative efforts of medical and vocational professionals. Considerable staffing resources have been transferred for rehabilitation purposes.

The main responsibility for the delivery of vocational services for disabled person lies with the labour market authorities, headed by the National Labour Market Board. Vocational Assessment Rehabilitation Institutes (Ami) are responsible for counselling and rehabilitation services. In addition there are institutes that offer specialist resources (Ami-S) for certain categories of disabled persons. Employment training spans all occupational fields. Vocational training provision is the responsibility of AMU, the labour market training centres. AMU contract to offer training courses with regional labour market boards. AMU have changed from grant-receiving to revenue-based organisations..

Working Life Services, a revenue-financed, consultancy group operation, aims at quicker rehabilitation of individuals. It offers occupational assessment and guidance and information on training and workplace adaption. Clients include Social Insurance Offices, county municipal agencies, and the private sector.

SAMHALL, a government-owned group of companies, is responsible for all the sheltered employment in Sweden. Much of its work concentrates on industrial manufacturing and it is the largest sub-contractor in Sweden. The organisation's aim is 'to provide meaningful and vocational employment to persons with occupational disabilities, wherever the need arises'. SAMHALL employees rose from 20,900 in 1980, to 29,000 at the end of 1995 (out of a total of 32,200 employees). The average period of employment for all employees was eight years. Performance indicators set targets of a three per cent transition to open employment each year but the economic recession has made transition increasingly difficult. SAMHALL has been experiencing major structural change; manufacturing products have declined, while production of services has increased.

The population of Sweden is about 8.8 million (MISEP, 1995). Total labour force participation in 1995 was 4,266,000, and there were 339,900 unemployed persons, of whom 316,700 were registered unemployed in April 1995.. Since 1990 unemployment has increased sharply; jobseekers rose from 220,000 (March, 1990) to 900,000 (December, 1995). The number of disabled jobseekers in 1991/2 was 20,200, by the end of 1995 this was 54,200. Of these, 48,300 were unemployed but only 13,400 were ready to enter employment - the rest required some kind of preparatory measure.

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UNITED KINGDOM

POLICY AND INSTITUTIONAL CONTEXT

Disability policy and legislation

Disability-related issues have gained prominence during the past decade. This has been due in part to campaigning by a vigorous disability movement which has increasingly looked to the experience of anti-discrimination legislation in other countries. Although the United Kingdom has eschewed an all-embracing civil rights approach, the passage of anti-discrimination legislation in 1995 marked a significant break with tradition. Until this time UK policy had sought to tackle discrimination against

disabled persons through voluntary measures and initiatives.

Ensuring full and fair access to employment opportunities is a key element in the UK Government's stated policy of enabling disabled people to be fully active and independent members of society. This wider aim is approached on three broad fronts: attempts to change attitudes; legislation to ensure that individuals are treated fairly; and practical supports and services where required. The UK has introduced a Minister with responsibility for disability issues. The Minister for Disabled People stated that: 'We have to widen our concept of discrimination if we are serious about helping disabled people to live their lives to the full... There are several million disabled people in the UK. We want to recognise them as members of society' (Department of Social Security Press Release, 25th April 1996).

Disability Discrimination Act

The Disability Discrimination Act (DDA) 1995 makes it unlawful to discriminate against disabled persons in connection with employment, the provision of goods and services, and buying or renting land or property. It is against the law for employers of 20 or more workers to treat a disabled person less favourably than someone else because of their disability, unless there is good reason. Employers and people who provide goods and services to the public have to take reasonable measures to make sure that they are not discriminating.

The Act also allows the Government to set minimum accessibility standards for disabled users of taxis and new public service and rail vehicles and proposes, in relation to educational institutes, new policy making and reporting obligations to encourage recognition of the needs of disabled people wishing to study and the provision of better information for parents, pupils and students.

The Act set up a National Disability Council and a Northern Ireland Disability Council to advise the Government on discrimination against disabled people.

The measures in the Act are to be implemented over several years. The employment provisions came into effect in December 1996. From that date it also became unlawful to refuse to serve a disabled person or to provide a lower standard of service, or on less favourable terms, and to discriminate when selling or letting land or property. Requirements on service providers to amend policies, procedures and practices, to provide help for access and to remove or alter physical barriers, will take effect at a later date.

The Act falls short of the aspirations of disabled campaigners. Criticisms include the inadequacy of education and transport provisions, the staged introduction which is thought to reduce impact, the lack of an investigatory commission empowered to take action on behalf of aggrieved persons and the limit in employment provisions to employers of 20 or more staff.

Labour market policy

Economic and ideological factors framed the response to disability issues of a series of Conservative governments. Their policies demonstrated a commitment to a 'flexible' labour market free from restrictive practices and regulation. Removing burdens on industry was a prime concern. Promotion of individual responsibility and incentive to work were central themes of successive governments, alongside reducing the costs of the welfare state.

The belief that out-of-work benefits are a disincentive to work has been a strong influence on the UK system. Programmes for the unemployed, including long-term disabled people, focused on reducing the value of benefits, restricting eligibility, tightening their administration and introducing new programmes to assist access to work. Links were strengthened between benefit payment and active job search for the unemployed.

There has been substantial change in occupational structure and in working patterns and conditions. Although

employment has grown, there has been a polarisation between no-earner and dual-earner households. While the proportion of men working has fallen steadily, that of women is increasing, reflecting a shift from manufacturing to service jobs. Less emphasis is placed on technical and vocational skills, and more on personal skills including teamwork, initiative, flexibility and adaptability (Meadows, 1996).

The labour market has become more flexible, with part-time working, very low hours, self-employment, temporary and casual jobs, functional flexibility and shifting work patterns (Dex and McCulloch, 1996). The growth in part-time and temporary work has been slow, however. Commentators see opportunities for disabled people in non-standard employment (Oliver, 1995). Self-directed employment, tele-working and flexible working hours may advantage the professional classes (Meadows, 1996), while employment opportunities decrease for unskilled disabled people, especially those with learning disabilities (Barnes, 1991; Lunt and Thornton, 1994).

Evolution of disability employment policy

The first comprehensive framework for the employment of disabled people was introduced by the Disabled Persons (Employment) Act 1944. The Act made provision for a disabled persons' employment register; assessment, rehabilitation and training facilities; a specialised employment placement service; a duty on employers of 20 or more workers to employ a three per cent quota of registered disabled people; protection against unfair dismissal of registered disabled people; designated employment; and a National Advisory Council and local Advisory Committees.

After the post-war period of full employment, the percentage of eligible employers meeting the quota declined from 61 per cent in 1961 to 28 per cent in 1985 and 19 per cent in 1993. There several inter-connected explanations for the failure of the quota scheme. Under the Act, employers who fell below the quota had to give preference to registered disabled applicants recommended by specialist advisers within Employment Services. If there were no suitable applicants employers could be given exemption permits. Registration declined and bulk exemptions become a matter of course. Resources of the Employment Services were inadequate to monitor vacancies and propose suitable candidates. Moreover, sanctions for taking on a non-disabled worker without a permit were almost never applied.

It appears that many employers genuinely were unaware of the law and its requirements, which were not widely publicised by governments. By the early 1970s the quota was regarded as unworkable and several consultation documents proposed its abandonment, but no agreement could be reached on an alternative. There was a policy vacuum for many years. The quota provision was not repealed until 1995 when the DDA became law. The Disability Discrimination Bill had been presented to Parliament by the Government under pressure, after a succession of non-governmental anti-discrimination bills failed to win governmental support. The DDA confers a limited right not to be discriminated against in employment and in access to goods and services. The UK disabled people's movement had argued for full civil rights legislation. The costs to business were a major concern to Government in framing the legislation.

Recent governments' commitment to deregulation and non-interference in the labour market have favoured policies of persuasion rather than compulsion. The policy position is encapsulated by the Government's declaration that 'the most effective way to promote job opportunities for people with disabilities is to get employers to recognise the abilities of disabled people and the business case for employing them' (Employment Department, 1994).

Policy has favoured voluntary action by employers. Since the late 1970s there has been encouragement to employers to adopt good practices in recruitment, backed by codes of practice and schemes to acknowledge 'good employers'.. Governments have seen employers' networks, at local as well as national level, as

vehicles for change. There have been campaigns to raise public awareness of the abilities of disabled people and to persuade employers of 'the business case' for recruiting them.

The other main strand is practical help to disabled people to access open employment, combined with incentives to leave long-term invalidity benefits. There are both mainstream and special programmes. Increasingly, disabled people receive mainstream education and training for work, and are expected to use employment services open to all unemployed people.

The main national policies and programmes which promote access to open employment specifically for disabled people are:

- vocational preparation and placement services, since 1991 increasingly contracted by local Placement, Assessment and Counselling Teams (PACTs) to independent specialist agencies, for disabled people who need help beyond that available in mainstream employment services
- since 1994, a co-ordinated programme of financial assistance and practical aids to disabled individuals to help overcome obstacles on the job or in getting to work, known as Access to Work (replacing several separate schemes targeted mainly at employers)
- from 1992, Disability Working Allowance, a social security benefit to top up low earnings, designed as an incentive for partially disabled employees and self-employed people
- the Supported Employment Programme which provides subsidised work for severely disabled people with host employers through the Supported Placements Scheme.

There are almost no financial incentives to employers to recruit or retain disabled people.

Policy-making and implementation

Responsible bodies

Responsibility for most elements of employment policy has rested with the Department for Education and Employment (DfEE) in England and Wales since the merger of the former departments of employment and education in 1995. A similar merger took place within the Scottish Office.

Policy responsibility for the DDA rests overall with Department of Social Security (DSS) which hosts the Minister for Disabled People and the National Disability Council but the employment provisions of the Act are overseen by the DfEE with its own long-established National Council for the Employment of People with Disabilities.

The Employment Services (ES) agency within DfEE operates Access to Work, oversees PACTS and the Supported Employment Programme, and offers support to unemployed disabled people within its mainstream services, covering all of Great Britain. In Northern Ireland, a training and Employment Agency relates to the Department of Economic Development.

The DSS is responsible for benefits policy. The ES has joint responsibility with the Benefits Agency (controlled by DSS) for administering employment-related benefits. The Benefits Agency administers social security benefits, including Disability Working Allowance.

Policy responsibilities for training for the unemployed, vocational training for young people, employer-based training and support for enterprises in Great Britain rests with local employer-led private companies (TECs and, in Scotland, LECs). They contract training services to a range of public, private and voluntary sector providers.

Advisory bodies

The National Advisory Council for the Employment of People with Disabilities (NACEPD) was established under the Disabled People's (Employment) Act 1944 with a statutory responsibility to advise the Secretary of State on matters concerning the employment and training disabled people. Of the 18 members appointed by the Secretary of State for Education and Employment, three are representatives appointed after consultation with employers' organisations and three after consultation with trades unions and other workers' organisations.

At local level there are Committees for the Employment of People with Disabilities which provide advice and assistance on employment matters.

The National Disability Council was established under the terms of the DDA to advise the Secretary of State on disability issues and ways to reduce discrimination against disabled people; over half of its members are disabled or the parent of a disabled person. The National Council's remit does not cover employment and NACEPD was not abolished when other parts of the 1944 Act were repealed.

The social partners

The social partners are active at a national level, through the main employers' representative organisation, the Confederation of British Industry, and the Trades Union Council (TUC), in promoting equal opportunities, codes of good practice and 'the business case' for employing disabled people.

There are no special arrangements for representation of disabled workers' interests in the workplace and, with declining trades union membership and legislation restricting the activities of trades unions, opportunities for workers' representatives in the workplace to promote employment opportunities for disabled people have been limited. Trades unionists foresee an important new role in supporting cases brought under the DDA, however.

Disabled people's and non-governmental organisations

The disabled people's movement campaigns for civil rights legislation and promotes the 'social model' of disability, which conceives of 'disability' as a consequence of a disabling environment and society. They reject policies and services which see disability as a medical problem. The disability movement was prominent in securing anti-discrimination legislation, although the legislation did not go as far as most campaigners wished. Many national organisations of and for disabled people provide information and advice on the DDA and other employment-related measures.

In the UK there is a long tradition of service provision by voluntary organisations, particularly in community care and residential services, as well as in rehabilitative and therapeutic activities. Latterly, disability organisations in the voluntary sector have expanded their provision of services to support access to mainstream employment. A small number of companies managed by and employing disabled people now market services, such as disability equality training, to employers.

DEFINITIONS OF DISABILITY

The DDA introduced a new definition of disability. That definition relates to the new right not to be discriminated against in employment, in getting goods and services, and in buying or renting land or property.

The Act defines disability as 'a physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities'. Terms are defined in the Act or elaborated by Government guidance on matters to be taken into account in determining questions relating to the definition of disability (DfEE, 1996b).

Impairment includes physical impairments affecting the senses, such as sight and hearing, and mental impairments including learning disabilities and mental illness (if it is recognised by a respected body of medical opinion). Certain specified conditions are not regarded as impairments (notably: alcohol or nicotine addiction; hayfever; tendencies to set fires, steal, or abuse another person; exhibitionism; voyeurism; tattoos and body piercing).

Long-term effects must have lasted at least 12 months or be likely to last at least 12 months or for the rest of the life of the person affected. Long-term effects include those which are likely to recur.

Day-to-day activities are normal activities carried out by most people on a regular basis, and must involve one of the following broad categories:

- mobility
- manual dexterity
- continence
- the ability to lift, carry or move ordinary objects
- speech, hearing or eyesight
- memory, or ability to concentrate, learn or understand
- being able to recognise physical danger.

Work is not one of the normal listed day-to-day activities.

Also covered by the Act are:

severe disfigurements, although they have no effect on a person's ability to carry out normal day-to-day activities

progressive conditions, where impairments are likely to become substantial, such as cancer, HIV infection, multiple sclerosis or muscular dystrophy; the Act covers people with these conditions from the moment that there is a noticeable effect on normal day-to-day activity, however slight

people who have had a disability covered by the Act in the past and have recovered.

The DDA does not affect definitions and eligibility criteria for benefits within the social security system. It is probable that access to Employment Services will be governed by the DDA definition.

The 'social model' of disability is not recognised by official definitions of disability. The British Council of Disabled People (BCODP) believes that disability should be characterised as 'the loss or limitation of opportunities to take part in the mainstream of life in the community on an equal level with others due to physical or social barriers'.

STATISTICS

Disabled people in the population

There are several sources of survey data about disabled people in the population and their economic situation and the results are expected in 1997 of a new 'baseline' survey of disabled people's participation in the labour force, using the definition of disability in the DDA. The Labour Force Survey (LFS) is most commonly cited. The LFS gives extensive information, up-dated quarterly, about the characteristics of disabled people in the labour market in Great Britain.

According to the autumn 1996 LFS (Office for National Statistics, 1997) in Great Britain there were five million people of working age (15 per cent) with work-limiting conditions. (Respondents are asked whether they have a health problem or disability, expected to last for more than 12 months, which limits the kind of

paid work they can do.) Of those, 2.4 million were economically active, representing 8.8 per cent of the labour force. Their activity rate is half of that of the rest of the population. People with mental health problems are much less likely to be economically active than those with physical or sensory impairments. The activity rates of disabled and non-disabled people increasingly diverge as age increases.

Unemployed disabled people

The autumn LFS shows that nearly one in five economically active disabled people was unemployed (using the ILO definition) in autumn 1996, compared with less than one in ten non-disabled people. Unemployed disabled people are more likely to be unemployed for more than a year; half were long-term unemployed. People with learning difficulties and people with depression are most likely to be unemployed. Other evidence shows that unemployment increases with severity of disability (Berthoud et al., 1993).

An earlier Government-commissioned survey (Prescott-Clarke, 1990) found that 22 per cent of 'occupationally handicapped' but economically active men and women 'wanted work'.. These rates were almost twice as high as those for economically active men and women in the general population.

Disabled people in employment

Four in ten disabled men and one-third of disabled women are in employment, according to the autumn 1996 LFS. A quarter work part time. Disabled people tend to be over-represented in partly skilled and unskilled manual jobs and under-represented in professional and intermediate occupations, although the distribution across industrial sectors is similar to that for non-disabled people.

Table UK.1 shows the employment status of disabled men and women of working age in autumn 1996.

Table UK.1 Disabled men and women in employment, autumn 1996

	Men	Women	Total
Employees	943,000	726,000	1,669,000
Self-employed	273,000	58,000	295,000
Others*	32,000	19,000	51,000
Total	1,212,000	802,000	2,015,000

* i.e. on government supported employment and training programmes and unpaid family workers.

Source: *Labour Force Survey Autumn 1996*

On 1 April 1995 at least 13,438 disabled people were employed in the civil service (2.8 per cent). The percentage of disabled staff ranges from 4.7 per cent at the Ministry of Defence to 0.3 per cent in HM Prison Service (Cabinet Office, 1996).

In 1995, around 12,000 disabled people assessed as having reduced productivity were in sheltered workshops and a further 10,000 in 'supported placements' in open employment.

EMPLOYMENT SUPPORT SERVICES

Mainstream training and placement

The Employment Service offers job placement opportunities, and pays benefits and allowances to individuals who are unemployed. These services are run through some 1,100 local offices grouped in 154 districts; about 80 per cent of offices provide a single point of access for all government services and programmes (MISEP, 1995).

Mainstream training is delivered through a network of local Training and Enterprise Councils (TECs) in England and Wales. Similar provision is provided in Scotland through Local Enterprise Companies (LECs). A wide range of assistance is available to enable disabled people to benefit from vocational training programmes.

TECs and LECs have responsibility for planning and delivering training opportunities for their local areas. They are required by contract to provide appropriate, high quality training for their clients. Every year they must draw up a Business Plan and indicate how they intend to fulfil their obligations, including services for 'people with special needs'. They give priority to disabled people and may provide additional supports to disabled people participating in mainstream training programmes; Youth Training, Modern Apprenticeships and Training for Work. TECs and LECs must also offer help to entrepreneurs.

Youth Training (YT) offers young people vocational training in related work experience to assist them to compete for jobs. Trainees are assessed to identify their individual requirements before they join the programme. YT is available to those aged 16 to 18 years. Young disabled persons are eligible for a guaranteed place beyond the age of 18 if they have been unable to take up or complete YT because of a disability or health-related problem. Training must be completed before their 25th birthday. Of 230,000 participants, around five per cent were disabled people (Employment Gazette, April 1994).

Modern Apprenticeships offer training to school leavers for relevant industry sectors. Trainees are assessed when entering the scheme, and where assessment shows that they have special training needs they will receive special help to reach the agreed training outcome.

Training for Work (TfW) helps unemployed adults to acquire skills and experience in order to obtain jobs. TfW offers a package of training and/or work experience designed according to individual needs. All trainees undergo assessment and guidance prior to joining the scheme. TfW is available to all unemployed people aged between 18 and 63 years who have been unemployed for six months. Disabled people have priority access and can join the programme immediately. People can train part time if they have a disability or have domestic responsibilities that prevent them from training full time. The scheme has 320,000 participants a year, 11 per cent of whom are disabled (Employment Gazette, April 1994).

Effectiveness

The low level of economically active disabled people with no educational qualifications raises questions about the existence of a skill-gap and how this can be met appropriately. A specific issue concerns the importance of information, advice and training for young people for both paid and unpaid activities and opportunities (Youthaid, 1993; SSI, 1995). Low participation in and awareness of youth training opportunities and adult employment and long-term training schemes have been identified (Rowlingson and Berthoud, 1996). Some suggest that groups such as visually impaired people may be more dependent on training than others (RNIB, 1996).

A number of studies of TEC provision focus attention on the shift to outcome-based funding (NACAB, 1994; Meager, 1995; RNIB, 1996; Rolfe et al., 1996). Although there are financial incentives to providers to take on disabled people, screening out of those with the greatest needs is suspected (Davoud, 1996). The emphasis on employment as an outcome of training puts pressure on providers to offer training to the most job-ready candidates. This may discriminate against disabled people and those with special training needs who may

require more intensive support or rehabilitation to enter training.

Prospective trainees do not know what participation in training schemes might mean for their benefit entitlement, thus creating uncertainty. The potential loss of Incapacity Benefit encourages identification of 'incapable of work', perhaps leading to voluntary work as the only available option. A change of rules could encourage participation on TfW and YT by people in receipt of benefits, but the problem of divided institutional responsibilities remains, with clients of the Benefits Agency less likely to be referred to TfW (Rolfe et al., 1996). In 1992, a significant number of TECs also thought that the main obstacle preventing people with disabilities using their services was the benefits system (Employers Forum on Disability, 1992).

Specialist training and placement

Placement Assessment and Counselling Teams (PACTs) offer specialist services to disabled people who need help outside mainstream programmes; they also work with prospective employers. Rehabilitation is now meant to be provided by non-governmental agencies under contract to the PACTs.

PACTs were introduced in 1992 to draw together a number of services previously provided by the Disablement Resettlement Officers, the Disablement Advisory Service and the Employment Rehabilitation Service. PACT members, known as Disability Employment Advisors (DEAs), are based in mainstream Jobcentres. They assist disabled people to obtain and retain employment; arrange employment assessment and employment rehabilitation; offer advice on the mainstream TfW programme and specialist Access to Work scheme; and for severely disabled people offer a route to supported employment.

The establishment of PACTs in 1992 was accompanied by the introduction of nine regional Ability Development Centres (ADCs). These centres support PACTs and aim to improve the quality of specialist help for disabled persons, including developing disability awareness packages for agencies and other organisations (MISEP, 1995).

A study of PACT activities examined the quality of local rehabilitation and the way agencies should be monitored, raising questions about access, availability of equipment, and inflexibility of provision. The suggestion is that placement outcomes do not reflect the specific objectives of rehabilitation programmes, such as assessment and preparation for work (Lakey and Simpkins, 1994).

Most disabled adults receive training through TfW. People with severe disabilities may receive training which is centrally funded by DfEE and provided in two ways:

Residential training for about 960 trainees at Residential Training Colleges (RTCs) is a long-established measure. It allows additional support and medical care to be constantly available. RTCs provide vocational training in a range of occupational areas, and ten colleges provide training specifically for people with sensory impairments.

Special local training was introduced in April 1993 to serve groups for whom residential training is not appropriate because of mobility or domestic reasons. TECs may provide a local alternative using additional funding from the DfEE.

Supported employment

Supported employment agencies (SEAs) are emerging as a new form of employment support to disabled people. SEAs generally provide individualised support in the process of accessing employment, including liaison with prospective employers to find the most suitable job for their clients. If necessary, they maintain contact with the worker and employer once a job has been found. Most of their clients are people with

learning disabilities. Common job types are domestic cleaning or laundry work, and kitchen or waiting work.

Zarb et al. (1996) report 158 SEAs on the full membership list of the Association for Supported Employment, supporting around 4,000 to 5,000 people; they estimate approximately as many agencies who are not members. SEAs receive funding from a number of sources including local authorities and regional economic regeneration schemes. Some have contracts with PACTs.

Rehabilitation

Rehabilitation - in the sense of intervention to ensure that workers who become (more) disabled retain their jobs or return to other suitable work, whether with the same employer or elsewhere - has rarely featured in UK policy and practice. Employment Department 'resettlement' or 'advisory' services, which have attracted criticism for lengthy delays in arranging placements, have seldom practised early intervention at the workplace. The old rehabilitation centres tended to serve longer-term unemployed disabled people. The policy response to criticism of the ineffectiveness of such centres was to close them, and to promote special schemes to tackle barriers to employment. Thus, there has been almost no investment in strategies to adapt the individual to job opportunities.

Workplace rehabilitation has never been a feature of UK provision. There are no obligations on employers to ensure the retention of employees who become disabled (except for under the DDA where employers may need to act in order to avoid discrimination) and the notion of disability management at the workplace is only now gaining some limited currency, mainly through the activities of voluntary sector bodies and some large employers.

OPEN EMPLOYMENT: LEGAL OBLIGATIONS AND RIGHTS

The only significant legislation conferring legal obligations and rights in employment in the UK is the Disability Discrimination Act (DDA) 1995.

Disability Discrimination Act 1995

Unlawful discrimination

The DDA makes it unlawful for employers to discriminate against a disabled person in the following ways:

- in arrangements for the selection and recruitment of staff
- in the terms on which employment is offered
- by refusing to offer, or deliberately not offering, employment
- in opportunities (or lack of opportunities) for promotion, transfer, training or any other benefit
- by dismissal or subjection to any other detrimental treatment (victimisation).

Discrimination means that 'for a reason which relates to the disabled person's disability' the employer 'treats him less favourably than he treats or would treat others to whom that reason does not or would not apply' (section 5 (1) (a)). Discrimination may be justified where it can be shown that the less favourable treatment of a disabled person is for a reason that 'is both material to the circumstances of the particular case and substantial' (sections 5(1) and 5 (3)). Guidance gives as an example of a non-justifiable reason the assumption that a disabled person will take more sick leave.

Reasonable adjustments

The Act places a duty on employers to make reasonable adjustments to physical features of premises or employment arrangements if these substantially disadvantage a disabled employee, or prospective employee, compared to a non-disabled person. A failure to comply with the duty, without justification, is an act of discrimination. The Act illustrates several steps which employers might be expected to take:

- making reasonable alterations to premises
- allocating some duties to another member of staff
- transferring a disabled person to fill another vacancy
- altering working hours
- providing an alternative place of work
- allowing absences during the working day for rehabilitation, assessment or treatment
- enabling training
- providing additional or modified equipment or information
- providing support staff (a reader or interpreter) or supervision
- changing assessment procedures.

Employer need not make changes if the disabled person experiences only a minor disadvantage, if they do not know that a person has a disability (and it is reasonable for them not to know) or if the change required is not reasonable. A number of factors may influence the judgement as to whether it is reasonable to make a change, including the ease and cost of the measure, the employer's resources, financial help available and how much the disabled person's situation will be improved by an alteration.

Coverage

The employment provisions of the Act apply to employers based in Great Britain and Northern Ireland. They cover permanent members of staff and temporary workers and workers on contracts, whether hired from an employment business or self-employed. The Act does not cover people serving in the armed services, police officers, fire brigade members (who fight fires) and prison officers. Nor does it cover people working on board a ship, aircraft or hovercraft.

Employers with fewer than 20 staff are exempt. If the number of employees fluctuates, the Act applies whenever there are at least 20 employees. Under the Act, the Secretary of State is committed to reviewing this exemption before the fifth year of its operation but there is no obligation to amend it.

Complaints and redress

Disabled people alleging unjustified discrimination can take their case to an industrial tribunal. When a complaint is made to a tribunal, the conciliation service of the Advisory, Conciliation and Arbitration Service (ACAS) (or in Northern Ireland, LA, the Labour Relations Agency) is available. The conciliation officer will attempt a settlement and in the last resort there should be a remedy through an industrial tribunal. The individual may then obtain an award of unlimited compensation. ACAS and LA can also act in this way without a formal application being made to a tribunal.

The tribunal may make recommendations for the elimination of future discrimination but there is no power to make binding orders or injunctions to provide positive remedies for the disabled applicant or to require employers to adopt non-discriminatory policies or practices (Doyle, 1997).

Commentary

The employment provisions of the DDA have been criticised on several grounds. Comparisons are made with legislation elsewhere, and to alternatives previously put forward for the UK, which extend to employers of all sizes (as in Australia) and which provide for a disability rights commission to monitor the Act and investigate complaints independently. One key role of a commission under the alternative legislative model would be to carry out general investigations with a view to determining whether the provisions of this Act are being complied with. In the UK, the onus will fall on individuals to pursue their own grievances. Legal aid does not

extend to tribunals. The system may lead to the exclusion of disabled individuals less able to advocate for themselves. Clearly, an individual must have adequate education, training and support services to get to the position of being able to use the legal challenges. Advocacy and support may need to be offered for individual cases.

It seems unlikely that adjustments arising from a single individual's needs will have a wider influence on work and workplace; accommodation made for one person may be particular to his or her impairment and may not help the employment position of other disabled people (Thornton and Lunt, 1995). Anti-discrimination legislation which operates according to known limitations of specific individuals can be contrasted with the approach of legally requiring employers to arrange work and workplace to maximise the employment of disabled people. On the other hand, the experience of taking on and making accommodation for a disabled worker may lead to improved employment prospects for others with similar impairments. Research has consistently shown that those employers with experience of employing a disabled person are more favourably disposed towards taking on more.

In the UK, anti-discrimination legislation is relatively isolated, with few supportive measures. Other countries have accompanied anti-discrimination legislation with other measures and legislation. Although all countries have a range of financial measures and incentives to encourage employment of disabled workers, there may be an argument for strengthening these measures when introducing anti-discrimination legislation. The issue of where to situate costs of accommodation for anti-discrimination legislation bears on the nature of obligation imposed.

What UK anti-discrimination legislation can achieve standing alone is questionable. A disabled person must be in employment or competing for a particular post before he or she can be protected; that is, able to perform the 'essential requirements' of the job. The Act does not extend to education and training. What is more, unless the nature of the job is changed before the onset of recruitment, the potential for disabled applicants remains constrained. There are doubts about whether the Act can improve the position of people with learning difficulties, who may require positions specially tailored to their abilities. That said, anti-discrimination legislation may have purposes other than just defending the rights of individuals in particular cases. It may have an important educative role.

PERSUASION POLICIES

The UK has used few financial rewards to pursue policies of persuasion. Rather, its principal strategy is to promote employer commitment to 'a positive approach' to employing disabled people.

Government expects employers to review their practices because it 'makes good business sense' to employ disabled people. The current rhetoric is part of a long campaign to convince the employer that the disabled worker is as good as someone who is not disabled. The dominant line of persuasion is that disabled workers should be valued not only for 'ability not disability', but also because they are potentially a more profitable asset to an employer than a non-disabled person. Employment Services literature stresses that in excluding disabled people 'you could be missing the best person for the job', and in keeping on a disabled person 'you keep their skills and experience and you save the cost (and inconvenience) of replacing them'.

There are three strands to the promotion of good employment practices: encouragement to adopt voluntary 'codes' of practice; disability symbols; and encouragement to join employer networks. A fourth measure, the regulatory obligation on large companies to publish a statement of policy in their annual report, by contrast, is seldom mentioned in Government promotional material.

Good practice guides and codes

Over the past 20 years, central government and its agencies have tried to influence employers' attitudes and practices with promotional material. In 1977, a 'Positive Policies' campaign was launched 'to develop enlightened internal company policies' and 55,000 firms were targeted with booklets outlining six main guidelines on recruitment, retention, training and career development, and modification and adaptation of equipment and premises. The government agency of the time found the campaign to have had minimal impact; only one in five employers in a follow-up survey remembered having received and read the literature.

A non-statutory 'Code of Good Practice' on the employment of disabled people was introduced in 1984, and updated in 1990 and in 1993. The document aimed to help companies to specify their objectives and draw up a policy, rather than to set out targets or measures of achievement. Although 120,000 copies were distributed, Government commissioned research estimated that it was received by less than one-fifth of all employers (Morrell, 1990).

The DDA provided for a statutory Code of Practice. This 68 page, priced publication gives guidance to employers in interpreting the provisions of the Act relating to employment (Department for Education and Employment, 1996a).

The TUC publishes guidance for its members, including a 'model equal opportunities agreement in disability' (TUC, 1993).

Disability symbols

Symbols marking good practice have a similarly long history. In 1979, a 'Fit for Work' campaign attempted to bolster the limited impact of 'Positive Policies', by conferring 100 awards each year to firms that made 'outstanding achievements in the employment of disabled people', measured by adherence to the same six guidelines. Award winners received a presentation plaque, citation and desk ornament and could use the award's emblem. The scheme lasted for 11 years but is reported to have had little impact.

The Disability Symbol, first introduced in 1990 and later revised, may be used on job advertisements and on recruitment literature. It is not awarded, but is adopted voluntarily by those employers who, after discussion with Employment Service officials, demonstrate an organisational commitment to good employment opportunities for disabled people, and are thus 'positive about disabled people'. Use of the symbol requires five commitments:

- to interview all disabled applicants who meet the minimum criteria for a job vacancy and to consider them on their merits
- to ask a disabled employee at least once a year about his or her requirements at work
- to make every effort to keep a worker in employment if he or she becomes disabled
- to take action to ensure that key employees develop the awareness of disability needed to make the commitments work
- each year to check progress, plan ahead and inform all employees of progress and plans.

The number of symbol users has increased from around 300 in June 1993 to over 2,500 private and public sector companies in June 1996.

The commissioning of a succession of surveys demonstrates the extent of the Government's investment in its lead strategy of increasing employer commitment to a positive approach to employing disabled people. A recent survey (Dench et al., 1996) found that symbol users were more likely to have a written policy specifically addressing the employment of disabled people and more likely to try actively to attract applications from disabled people. However, symbol users were no more likely than non-users to have disabled people in their workforce. Moreover, there is no clear evidence that symbol use led to improved

practices. Over 40 per cent of symbol users in the survey reported that it had not made any difference to their practices. It seemed likely that registration as a symbol user attracted those employers who already had good practices in place.

Employer networks

Although not promoted as official policy, peer group activities, such as the national Employers Forum on Disability (EFD) and the small number of local employer networks, are welcomed and encouraged by Government. The EFD, an independent organisation whose members are mainly large national and multi-national companies, has found favour with Government for its encouragement of good employment practices within the peer group. Some large employers are taking initiatives to remove barriers to disabled people's employment, through, for example, disability awareness training for employees.

The Government-commissioned survey of employers (Dench et al., 1996) found low levels of awareness and use of EFD and local employer networks. The small memberships of the latter have tended to be dominated by the larger, good practice employers, often local branches of members of the Employers Forum (Maginn and Meager, 1995).

Employer networks, and other means of branding 'good employers', are intended to set an example to less progressive firms. They may also be valuable as a source of information on employment services such as Access to Work, about which employers in the recent survey were notably ill-informed. Dench et al. (1996) suggest that such networks might most usefully engage in proactive recruitment, given the prime difficulty that employers reportedly face in achieving disabled applicants. However, this is not seen by networks as a main aim (Maginn and Meager, 1995).

Companies Act

In 1980, a regulatory measure joined the voluntary initiatives. The Companies (Director's Report) (Employment of Disabled People) Regulations 1980 were later incorporated in the Companies Act 1985. It placed a duty on all UK registered companies employing more than 250 people to include in their annual Directors' Report a statement of the policy applied during the previous year on recruitment, retention, training, promotion and career development of disabled people. Although the Act does not apply to public sector employers, both the Employment Department and the Department of Trade and Industry (which administers the Act) have advised that public sector employers should also adhere to its regulations. However, the requirement of the Companies Act is rarely highlighted by Government and there is no evidence about adherence or whether policy statements relate to practice.

Effectiveness

There is little evidence that persuasion policies have had an impact on the level of recruitment of disabled people. Research consistently reports that employer prejudice is a major disincentive to work, while employers consistently state that the main reason for not employing disabled people is that they do not apply. We do not know whether 'good practice' strategies affect the job-seeking behaviour of disabled people. Policies aimed at 'setting an example', and those that seek to work through organisations in a voluntary way, have a long-term agenda. However, promotion of good employment practices has been part of government policy for nearly two decades, with no apparent causal affect on the quantity or quality of disabled people's employment.

Strategies to improve recruitment practices assume that vacancies are advertised and competitive interviews

are held. Yet many employers, small employers in particular, recruit by word-of-mouth. Studies have shown that the main way of finding a job is through hearing about it from someone who works there. Raising disability awareness among potential co-workers may be a more useful means of attracting disabled applicants.

Strategies which focus on improving recruitment practices may be hampered by a mismatch between vacancies and the qualifications of disabled jobseekers. The Employment and Handicap survey carried out for the Employment Department in 1989 (Prescott-Clarke, 1990) found that 59 per cent of those who wanted work, in the economically active category, and 53 per cent of those in the category anticipating working in the next 12 months, had no educational qualifications.

OPEN EMPLOYMENT: FINANCIAL INCENTIVES

UK Governments have tended to avoid financial rewards to employers as mechanisms for regulating the labour market. The recent announcement of a national insurance 'holiday', encouraging employers to take on anyone unemployed for two or more years, is novel.

The idea that employers might be rewarded for taking on disabled workers is contrary to the principles of the 1944 Act, which expected disabled people to be employed on merit and in equal competition. The few schemes that have been tried have been promoted as opportunities to discover disabled people's skills and potential, and to deal with any practical concerns, rather than as financial incentives.

Schemes previously targeted at the employer for adaptation to the workplace have now been incorporated in the overall Access to Work (ATW) programme designed around the disabled employee.

Job Introduction Scheme

The only scheme offering direct financial assistance to the employer is the Job Introduction Scheme, first introduced in 1977. Under this Employment Service scheme, a private sector employer who takes on a disabled worker is paid a grant of £45 a week towards wages during a 'trial period', usually of six weeks but exceptionally extendable to a maximum of 13 weeks. The job can be full-time or part-time but it must be expected to last for at least six months after the trial period has ended. The employer is expected to pay the normal rate for the job.

When the grant stood at £40 per week, the scheme was reported in 1981 to be very successful, though the latest available figures suggest that numbers have dropped significantly. The future of the scheme is under review.

Access to Work

The Access to Work (ATW) programme, introduced in 1994, is administered by the Employment Service. The budget is cash-limited; provision for 1995/96 was £19 million.

ATW can pay towards approved costs, in a part-time or full-time job, of:

- alterations to premises or the working environment if needed for a specified disabled employee
- special equipment or adaptations to existing equipment to suit particular work needs
- deaf awareness training for co-workers

- a support worker if practical help is needed either at work or in getting to work
- transport to work if public transport cannot be used because of disability
- a communicator for deaf people at interview
- a reader at work for someone who is blind or has a visual impairment and other practical needs.

ATW will pay for 100 per cent of approved costs for disabled people previously unemployed (for at least four weeks) or for those changing employer (if application is made within six weeks) and 100 per cent of travel-to-work costs and of communicator at interview costs, regardless of status.

When first introduced, there were no costs to the employer. From June 1996, if someone already employed needs assistance, ATW pays up to 80 per cent of approved costs between a threshold of £300 and £10,000 and 100 per cent of the approved costs between £10,000 and the actual cost. Thus for those already in work, employers are expected to pay the first £300 each year and, thereafter, ATW will meet up to 80 per cent of the costs. All the costs in excess of £1,000 over three years will be met.

The original aim of ATW was to increase the number of disabled people in work; half of the entrants to ATW were intended to be unemployed. However, a survey one year after introduction found 92 per cent already in work when they applied (Beinart et al., 1996). In the quarter ending September 1996, ATW supported 4,233 people in work with continuous help, helped a further 456 new users in work, and helped 334 people to obtain work (Hansard, col.80, 11/11/1996).

Effectiveness

Beinart et al. (1996) report that 18 per cent of employers took ATW recipients after they had received an offer of help from ATW; one-fifth of recipients of services said they would not be in a job without ATW. Other studies suggest that there are difficulties in accessing information and low awareness of ATW, as well as confusion over the rules and delays in obtaining support (RNIB/RADAR, 1995). Even so, the scheme is considered as having certain benefits, such as offering support tailored to individual needs, and could still usefully reach an additional 3,000 users (RNIB/RADAR, 1995).

Research indicates reducing levels of employer awareness of programmes similar to those outlined above. In 1987, a government-commissioned survey (Morrell, 1990) interviewed mainly personnel officers of establishments with 20 or more employees. It found awareness levels of over 50 per cent in relation to merely three special schemes, and only among employers in contact with the Disability Advisory Service. In the same study, 20 per cent had used the Job Introduction Scheme. The recent study of employers' practices (Dench et al., 1996) found that only 23 per cent of a random sample were aware of ATW and its predecessor special schemes; and only four per cent claimed some sort of contact with those provisions.

Research has found a not surprising association between contact with Employment Services for disabled people (such as the present day PACTs) and awareness of government schemes. The limited coverage by specialist employment services of potential employers, and particularly of small and medium-sized enterprises, has been recurrently criticised.

Incentives to disabled people

Disability working allowance

An innovation in disability policy was the introduction of Disability Working Allowance (DWA) in April 1992. This social security benefit is intended primarily to encourage disabled people off benefits and into work, by topping up low wages or self-employed earnings. Its introduction reflects the employment policy assumption that improving incentives will encourage those at the margin to engage in increased economic activity.

DWA is a tax-free, non-contributory benefit. It is means-tested and the amount payable depends on the total income of the claimant's family. It is normally paid for 26 weeks, regardless of changes in income. DWA can be claimed by those already in a job, averaging at least 16 hours per week, whose disability puts them at a 'disadvantage in getting a job'. To qualify, disabled people in work must be receiving certain rates of Disability Living Allowance (a non-means-tested 'costs of disability' benefit) or have received, within the eight weeks prior to starting work, the contributory Invalidity Benefit (IB), the non-contributory Severe Disablement Allowance (SDA), or the disability premium with Income Support, Housing Benefit or Council Tax Benefit (or other minor benefits).

Prior to the introduction of DWA, the social security system created disincentives for disabled people to enter work in two ways. First, there was little possibility of building on partial capacity for work within the benefits system. IB and SDA recipients can undertake paid work of up to 16 hours a week (earning no more than £44) only if of benefit to their health and on the advice of a medical doctor. Secondly, disabled people were unable to experiment and test their capacity for work without losing entitlement to long-term benefits. The IB rules mean that return to the benefit at the same rate is permissible only within eight weeks of taking up a job. DWA has much more favourable 'linking rules'; if the job does not work out and the person has to resign, entitlement for IB is safeguarded for up to two years, as long as the person is still incapable of work.

It was estimated that 50,000 people would successfully claim DWA. Compared with Government expectations, the results to date have been disappointing. Take-up was initially slow but numbers have risen more rapidly from 1995. At October 1996 the case-load was 11,350.

It was assumed that 70 per cent of the estimated 50,000 claimants would be people who had taken jobs in response to the benefit; the rest were expected to be already in work. An evaluation found that in October 1993, only 200 of the 3,500 DWA claimants had been encouraged into work by the benefit and that most recipients were in work when they heard of it (Rowlingson and Berthoud, 1996). The number and proportion of new claimants responding to the incentive effect is increasing slowly, however.

DWA's effect on enabling people to move off incapacity benefits has been negligible. In the period from spring 1992 to autumn 1995, only two per cent of the 1.5 million working-age recipients of one of the three main incapacity benefits moved off these benefits and into full-time work, almost all without the help of DWA (Rowlingson and Berthoud, 1996).

A secondary aim of DWA has been to act as a long-term subsidy for those in low-paid employment. In this respect, the benefit has met expectations. In the four years to October 1996, 60 per cent of awards were renewals (*DWA Statistics Quarterly Enquiry October 1996*), suggesting that the benefit has an effect as a long-term wage supplement. Information from the same source shows that over one-third of all awards in the same period were to people in self-employment.

Some commentators suggest that structural aspects of DWA, such as the means test and potential poverty trap, limit its use. The requirement that claimants should be in work within eight weeks of leaving qualifying benefits is considered an obstacle (Davoud, 1996). Awareness is low. Moreover, there is an in-built contradiction in the system: IB is conceived of as an incapacity benefit, that is for people whose inability to work is demonstrated; yet having received IB is a qualifying condition for DWA (Rowlingson and Berthoud, 1996). The 'all or nothing' nature of the disability benefit system may discourage disabled people from considering themselves capable of some work.

The enduring division of disabled people into 'capable' and 'incapable' of work reflects traditional division of responsibilities between government departments. Despite the introduction of DWA, which bridges social security and employment policy objectives, institutionalised practices are still significant barriers. Thus, recipients of IB, who are clients of the Benefits Agency, are much less likely than unemployment benefit recipients to be referred to training and vocational services run by Employment Services (Rolfe et al., 1996).

Similarly, providers of employment services, such as sheltered workshop staff, do not see benefits advice as their role (Zarb et al., 1996).

Training allowance

Disabled people undertaking Training for Work can receive a training allowance which is equivalent to any benefit they are entitled to, with a £10.00 addition. Eligibility for IB is retained for two years.

Support for disabled students

Additional financial support is available to disabled students. A study of local education authority approaches to administering the Disabled Students Allowance estimated there was restricted take-up of the allowance, although authorities adopted a sympathetic and fairly flexible approach to its administration (Patton, 1990).

Self-employment

Self-employment is considered important for disabled people. This form of working is an area of growth within the economy. In 1995, 13 per cent of those employed were self-employed (17.8 per cent men and seven per cent women) (European Commission, 1996). According to the autumn 1996 LFS, a fifth of disabled men, compared with a sixth of non-disabled men, were self-employed (Office for National Statistics, 1997).

The Employment Department has recognised this as an important element of policy for disabled people (Corden and Eardley, 1994). To encourage disabled people to pursue this option there are three specialist schemes which apply to only a small number of workers. It is difficult to gauge how many disabled people make use of the mainstream ES scheme to encourage self-employment, New Business Support (previously Enterprise Allowance), or the range of other enterprise programmes and initiatives described by Floyd (1995).

SHELTERED/SUPPORTED EMPLOYMENT

The Employment Services programme for people with reduced productivity, who are unable otherwise to obtain or retain employment because of the severity of their disability, has been renamed the Supported Employment Programme and is no longer referred to as 'sheltered employment'. This comprises three different elements: Remploy (a private company limited by guarantee which receives subventions from government); special workshops; and the Supported Placement Scheme (SPS). Operating outside the DfEE programme are Supported Employment Agencies (described above).

In Northern Ireland, sheltered provision is run through Ulster Sheltered Employment Limited, and the SPS, co-ordinated through the Employment and Training Agency.

Provision and funding

Voluntary sheltered employment provision has existed since the nineteenth century. The Disabled Persons (Employment) Act 1944 empowered the Secretary of State for Employment to finance sheltered workshops from public funds. Workshops were intended to provide work under special conditions and training, for people registered as disabled under the 1944 Act. Remploy was established by government in 1946 and grew to become the biggest provider. Local authorities were enabled in 1948 to set up workshops with financial support under the Act. Finally, voluntary bodies were given the same right (Samoy, 1992).

Numbers of workshops and disabled employees grew until the 1980s. Samoy (1992) reports that in early 1990 Remploy had 93 branches with 8,700 employees, and that local authorities and voluntary bodies had set

up 129 workshops, with 4,267 and 1,200 employees respectively. Zarb et al. (1996) report about 120 workshops run by about 100 local authorities, and 25 voluntary organisations which employ about 7,000 workers in total. Local authority and voluntary workshops vary greatly in size, from only a handful staff and a turn-over of £50,000 to over 200 staff and a turnover of £6 million (Zarb et al., 1996).

Between 1989 and 1994, the number of people in sheltered workshops fell by 12 per cent to stand at 12,282 at the end of March 1994. (A year later, it had fallen by a further 329 employees.)

The reduction of sheltered work is a consequence of a policy shift towards the Sheltered Placements Scheme, redesignated the Supported Placement Scheme (SPS) in April 1994. The SPS involves a three-way agreement between a sponsor (either a local authority or non-profit distributing body) which normally employs the disabled person, a host company which provides the work and pays the sponsor an agreed amount for the work done by the supported employment disabled worker, and the ES which pays a grant to the sponsor. The disabled person receives the same wage as non-disabled person doing the same job.

Under the (previous) SPS 6,500 people found employment between 1985 and 1990 (Samoy, 1992). Remploy has also diversified to establish its own 'Interwork' scheme. By the end of March 1995, there were almost 10,000 disabled people employed through and Remploy Interwork. In 1995/96, Interwork accounted for 2,200 of the 10,200 supported placements.

Targets for Remploy Ltd in 1996-97, under its annual performance agreement with the DfEE, were for:

- an average number of 9,400 disabled people employed by Remploy Ltd
- an average number of disabled people employed under the Interwork scheme of 2,400
- at least 175 disabled employees to move from Remploy factories to Interwork having been employed there for at least one year, or from Interwork factories to open employment.

(Hansard, col. 142, 2/4/96)

A report to the Government by the National Audit Office recommended more assistance to help Remploy to place workers in companies in open employment rather than in its own factories. The costs of a placement in open employment were less than half those of placement in a Remploy factory but the high costs of the latter were the consequence of surplus capacity in Remploy factories (NAO, 1997). Remploy's financial situation deteriorated between 1987 and 1995 with an increasing annual deficit (NAO, 1997).

Government funding of the Supported Employment Programme amounted to £153.2 million in 1995/96, of which £94.2 million was paid to Remploy.

Target group

The target group for the Supported Employment Programme is people who are unable to obtain or retain jobs in the open market because of the severity of their disabilities. The entry criteria are essentially unaltered following the introduction of the DDA. Before the Act, entry was based on registration under the 1944 Act and on judgements by specialist ES staff on a disabled person's output, compared with a non-disabled person's, within a range of 30 and 80 per cent.

Consultation by the DfEE found 'a substantial majority of those responding were in favour of keeping the current entry criteria apart from the modifications needed to comply with the Disability Discrimination Act 1995' (Hansard, col. 227, 27/6/1996.) With the abolition of registration, all disabled people entering the programme need to comply with the definition of disability in the DDA but the 30 to 80 per cent productivity criterion still applies.

As no specific techniques are prescribed to assess productivity, the eligibility decision will remain discretionary. A study in the late 1980s (Prescott-Clarke, 1990) found considerable discrepancies in judgements of the Disability Resettlement Officers performing this task about which clients should be directed to open or to sheltered employment.

Employees

By the end of March 1995, 45 per cent of placements were in SPS and Interwork. Of the SPS placements, around 500 were in the civil service; half at the Employment Department Group, and a quarter at the Department of Social Security (Cabinet Office, 1996)..

The characteristics of employees in SPS differ from those in workshops in terms of disability. Samoy (1992) classified around half of all workshop employees in 1989 as physically disabled; Remploy workshops had fewer 'mentally handicapped' people (14 per cent) and people with sensory impairments (12 per cent) than the other workshops (20 per cent in each group) but significantly more (24 per cent) classified as having 'mental illness'.. In the (then) SPS, on the other hand, 42 per cent of employees were 'mentally handicapped' and the trend of placing people with learning disabilities in supported placements appears to be growing. However, nothing is known about the severity of disabilities within the wide range of 30 to 80 per cent productivity. In both workshops and supported placements (SPS and Interwork) only five to seven per cent of employees are blind or partially sighted (DfEE communication).

Workshop employees tend to be predominantly male; in 1990, 73 of Remploy workshop employees and 79 per cent of the rest were men (Samoy, 1992).

Social co-operatives

There has been growing interest in social co-operatives in the UK (Spear, 1995). Social employment co-operatives provide employment for disadvantaged groups, often with support. Between 40 and 50 social employment co-operatives provide work for disabled people. In social employment co-operatives the labour conditions of disabled people are problematic because of a risk of losing access to income support benefits (Spear, 1995).

SUMMARY

Disability-related issues have gained prominence in the UK during the past decade, due in part to disability movement campaigns. Anti-discrimination legislation passed in 1995 fell short of the hoped-for civil rights legislation but nevertheless marked a significant break with tradition as, until then, policy had sought to tackle discrimination against disabled persons through voluntary measures and initiatives. Ensuring full and fair access to employment opportunities is a key element in the UK Government's stated policy of enabling disabled people to be fully active and independent members of society.

The Disability Discrimination Act (DDA) 1995 made it unlawful to discriminate unjustifiably against disabled persons in connection with employment, the provision of goods and services, and buying or renting land or property. Employers and people who provide goods and services to the public have to take reasonable measures to make sure that they are not discriminating. The Act also allows the Government to set minimum standards for disabled users of new public service vehicles and, in relation to education, ensures the recognition of the needs of disabled people wishing to study and the provision of better information for parents, pupils and students. The measures in the Act are to be implemented over several years. The

employment provisions came into effect in December 1996.

Economic and ideological factors framed the response to disability issues of a series of Conservative governments. Their policies demonstrated a commitment to a 'flexible' labour market free from restrictive practices and regulation. Removing burdens on industry was a prime concern. Promotion of individual responsibility and incentive to work were central themes of successive governments, alongside reducing the costs of the welfare state. The belief that out-of-work benefits are a disincentive to work has been a strong influence on the UK system.

The first comprehensive framework for the employment of disabled people was introduced by the Disabled Persons (Employment) Act 1944. The Act made provision for a disabled persons employment register; assessment, rehabilitation and training facilities; a specialised employment placement service; a duty on employers of 20 or more workers to employ a three per cent quota of registered disabled people; protection against unfair dismissal of registered disabled people; designated employment; and a National Advisory Council and local Advisory Committees.

After the post-war period of full employment, the percentage of eligible employers meeting the quota declined between 1961 and 1993 from 61 to 19 per cent. By the early 1970s, the quota was regarded as unworkable and several consultation documents proposed its abandonment, but no alternative could be agreed. The quota provision was not repealed until 1995, when the DDA became law. The Disability Discrimination Bill had been presented to Parliament by the Government under pressure, after a succession of non-governmental anti-discrimination bills failed to win governmental support. Recent governments' commitment to deregulation and non-interference in the labour market have favoured policies of persuasion rather than compulsion.

Responsibility for most elements of employment policy rests with the Department for Education and Employment (DfEE) in England and Wales and with the Scottish Office. Policy responsibility for the DDA rests overall with Department of Social Security (DSS), which hosts the Minister for Disabled People and the National Disability Council (set up by the DDA), but the employment provisions of the Act are overseen by the DfEE with its own long-established National Council for the Employment of People with Disabilities.

The Employment Services (ES) agency within DfEE operates specialist programmes for disabled people and offers support to unemployed disabled people within its mainstream services, covering all of Great Britain. In Northern Ireland, a Training and Employment Agency relates to the Department of Economic Development. ES has joint responsibility with the Benefits Agency (controlled by DSS) for administering employment-related benefits. The Benefits Agency administers social security benefits.

Policy responsibilities for training for the unemployed, vocational training for young people, employer-based training and support for enterprises in Great Britain rests with local employer-led private companies (TECs and, in Scotland, LECs).

The DDA defines disability as 'a physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities'.. Terms are defined in the Act or elaborated by Government guidance. Impairment includes physical impairments affecting the senses, such as sight and hearing, and mental impairments including learning disabilities and mental illness (if it is recognised by a respected body of medical opinion). Long-term effects must have lasted at least 12 months or be likely to last at least 12 months. Day-to-day activities must involve one of the following: mobility; manual dexterity; continence; the ability to lift, carry or move ordinary objects; speech, hearing or eyesight; memory, or ability to concentrate, learn or understand; and being able to recognise physical danger. The Act also covers: severe disfigurements; progressive conditions, where impairments are likely to become substantial; and people who have had a disability in the past.

In autumn 1996 in Great Britain there were five million people of working age (15 per cent) with work-limiting conditions. Of those, 2.4 million were economically active, representing 8.8 per cent of the labour force. Their activity rate is half of that of the rest of the population. People with mental health problems are much less likely to be economically active than those with physical or sensory impairments. Nearly one in five economically active disabled people was unemployed in autumn 1996, compared with less than one in ten non-disabled people. Unemployed disabled people are more likely to be unemployed for more than a year; half were long-term unemployed. People with learning difficulties and people with depression are most likely to be unemployed. Four in ten disabled men and one-third of disabled women were in employment. Disabled people tend to be over-represented in partly skilled and unskilled manual jobs and under-represented in professional and intermediate occupations, although the distribution across industrial sectors is similar to that for non-disabled people.

TECs and LECs contract training mainstream training services to a range of public, private and voluntary sector providers. Young disabled people in the Youth Training Scheme are eligible for a guaranteed place beyond the standard age of 18; around five per cent of participants are disabled. In the Training for Work scheme unemployed disabled adults have priority access, can join the programme without a waiting period and can train part time; 11 per cent of participants are disabled. Although there are financial incentives to providers to take on disabled people, screening out of those with the greatest needs is suspected. Disabled people undertaking Training for Work can receive a training allowance which is equivalent to any benefit they are entitled to, with a £10 addition.

Placement Assessment and Counselling Teams (PACTs) offer specialist services to disabled people who need help outside mainstream programmes and also work with prospective employers. They assist disabled people to obtain and retain employment; arrange employment assessment and employment rehabilitation; offer advice on the mainstream Training for Work programme and specialist Access to Work Scheme; and for severely disabled people offer a route to supported employment. Rehabilitation is now meant to be provided by non-governmental agencies under contract to the PACTs. Nine regional Ability Development Centres support PACTs and aim to improve the quality of specialist help for disabled persons, including developing disability awareness packages for agencies and other organisations.

People with severe disabilities may receive centrally-funded training. Residential training for about 960 trainees at Residential Training Colleges (RTCs) provides vocational training in a range of occupational areas, and ten colleges provide training specifically for people with sensory impairments. Special local training was introduced in 1993 to serve groups for whom residential training is not appropriate because of mobility or domestic reasons.

Supported employment agencies (SEAs) are emerging as a new form of employment support to disabled people. SEAs generally provide individualised support in the process of accessing employment, including liaison with prospective employers to find the most suitable job for their clients. If necessary they maintain contact with the worker and employer once a job has been found. Most of their clients are people with learning disabilities.

The only significant legislation conferring legal obligations and rights in the employment of disabled people is the Disability Discrimination Act (DDA) 1995. It confers a right on individual disabled people not to be unjustifiably discriminated against, and imposes a new obligation on employers to make adjustments for a disabled person, where it is reasonably practical to do so. Those rights and duties relate to recruitment, transfer, training, career progression and general treatment at work. The duty of the employer to make adjustments relates to physical features of the premises as well as to recruitment and employment practices. The DDA provided for a statutory Code of Practice which gives guidance to employers in interpreting the provisions of the Act relating to employment. The Act applies only to employers of 20 or more staff but requires the Secretary of State to review the provision by the fifth year of its operation.

Where there are complaints against employers of alleged unjustified discrimination, the conciliation service of the Advisory, Conciliation and Arbitration Service (ACAS) is available, and in the last resort there should be a remedy through an industrial tribunal. The individual may then obtain compensation from the employer. Alternative legislation advanced earlier in the UK advocated a disability rights commission to monitor the act and investigate complaints independently. One key role of a such a commission would be to carry out general investigations with a view to determining whether provisions are being complied with.

The principal strategy has been to promote employer commitment to 'a positive approach' to employing disabled people. Government expects employers to review their practices because it 'makes good business sense' to employ disabled people. They are encouraged to adopt voluntary 'codes' of practice. 'Disability symbols' may be adopted voluntarily by those employers who, after discussion with Employment Service officials, agree to five commitments in the practice of recruitment and retention of disabled people. The national Employers Forum on Disability (EFD) and the small number of local employer networks, are encouraged by Government. The EFD, an independent organisation whose members are mainly large national and multi-national companies, has found favour with Government for its encouragement of good employment practices within the peer group. Some large employers are taking initiatives to remove barriers to disabled people's employment. The regulatory obligation on large companies to publish a statement of policy in their annual report, is seldom referred to.

UK governments have tended to avoid financial rewards to employers as mechanisms for regulating the labour market. The few schemes that have been tried have been promoted as opportunities to discover disabled people's skills and potential, and to deal with any practical concerns, rather than as financial incentives. Under the ES Job Introduction Scheme, dating from 1977, a private sector employer who takes on a disabled worker is paid a grant of £45 a week towards wages during a trial period. Other schemes previously targeted at the employer now been incorporated in the ES Access to Work (ATW) programme.

ATW can pay towards approved costs, in a part-time or full-time job, for specific disabled employees, including: alterations to the workplace and special or adapted equipment; a support worker for practical help at work or in getting to work; transport to work if public transport cannot be used because of disability; a communicator for deaf people at interview; and a reader at work for someone who is blind or has a visual impairment. ATW will pay all the approved costs for disabled people previously unemployed or changing employer but, since 1996 only up to 80 per cent of approved costs between £300 and £1,000 for someone already employed. All the costs in excess of £1,000 over three years will be met. Travel to work and communicator at interview costs are met in full for all. The original aim of ATW was to increase the number of disabled people in work; half of the entrants to ATW were intended to be unemployed. However, a survey one year after introduction found 92 per cent already in work when they applied.

Disability Working Allowance (DWA) was introduced in April 1992. This means-tested social security benefit is intended primarily to encourage disabled people off long-term invalidity benefits and into work, by topping up low wages or self-employed earnings. It must be claimed by disabled people who are already in work and who receive one of several qualifying benefits, including (within the previous eight weeks) a long-term invalidity benefit. It was estimated that 50,000 people would be receiving DWA. At October 1996 the case-load was 11,350. It is mostly claimed by people already in work and its effect on enabling people to move off benefits has been small.

The Employment Services programme for people with reduced productivity, who are unable otherwise to obtain or retain employment because of the severity of their disability, has been renamed the Supported Employment Programme (SEP) and is no longer referred to as 'sheltered employment'. This comprises three elements: Remploy (a private company limited by guarantee which receives subventions from government); special workshops; and the Supported Placement Scheme. The trend has been towards supported placements in open employment, through which an agency employs a severely disabled person placed with a host employer. In March 1995 almost 10,000 severely disabled people were employed in supported placements,

around half the total in SEP. Users of supported placements are more likely to have learning disabilities and people in sheltered workshops are more usually physically disabled.

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UNITED STATES OF AMERICA

POLICY AND INSTITUTIONAL CONTEXT

Disability policy and legislation

In 1996 President Clinton stated, 'We must forge a national disability policy that is based on three simple creeds - inclusion, not exclusion; independence not dependence; and empowerment, not paternalism'. Employment is considered pivotal in achieving inclusion, independence and empowerment. Indeed, in a speech at the 49th Annual Conference of the Presidents Committee on Employment of People with Disabilities, President Clinton suggested, 'Employment is the key to economic security for Americans... it is a tragedy today that two-thirds of people with disabilities are unemployed... and it is up to all of us - employers, labor, people with disabilities, and government to work together to change this picture'. New measures to improve federal agencies' tracking of disabled peoples' unemployment rates were introduced, and commitment to enforcing the Americans with Disabilities Act was reaffirmed for 1997.

Labour market policy

It is a belief of American policy that civil rights and free enterprise are not in conflict:

The issue today is not civil rights vs. free enterprise; it is free enterprise for all vs. unjust, unwanted discrimination and dependency that limits the humanity of members of all our families, and smothers us all with regimentation and debt. We who have disabilities want jobs,

not welfare; jobs, not lawsuits; respect not pity. We want to be full participants in the free enterprise system. (Justin Dart, speaking at ADA Summit, 1992).

Changes in the structure of production have had important consequences for disabled people. Many changes have occurred in the labour market; the proportion of workers with permanent, secure jobs has fallen, while there has been a rise in part-time, impermanent employment. Some believe that there is inadequate information about many of these changes and their impact on the quantitative and qualitative position of disabled people in the labour market. Disabled people are considered to act as a 'buffer' during periods of labour market change. As with members of racial minorities, employment of disabled people has become one of the main ways in which the labour market accommodates change (Yelin and Katz, 1994; Yelin and Cisternas, 1996).

USA policy attempts to integrate disabled people into the workforce mainly through supported, and competitive initiatives, with more limited sheltered employment. Most federal efforts to promote employment of disabled people are aimed at the competitive sector (GAO, 1996d). Some federal services with a goal of competitive employment are designed exclusively for disabled people, while others - such as the Job Training Partnership Act - are part of wider federal initiatives to promote job opportunities for groups disadvantaged in the labour market.

Particular concern has focused on the rising number of recipients of long-term sickness and disability benefits - Social Security Disability Insurance (DI) and Supplementary Security Income (SSI) - and the low number of recipients that return to the labour market (GAO, 1996a). The success, or otherwise, of disability employment policy and its relationship to the rising costs of administering disability benefits has attracted a great deal of attention (Rupp and Stapleton, 1995). Studies from the US General Accounting Office (GAO) have focused attention on these social security programmes and federal programmes aimed at integrating disabled people into the workforce.

Effective co-ordination of services is considered particularly important because as disabled people, 'often face multiple barriers to employment, including insufficient job training, lack of transportation, and employment discrimination, they may require services from more than one programme to make employment feasible. However, each programme has its own eligibility requirement and applicants must often establish eligibility separately because no effective mechanism exists to promote or ensure co-ordination' (GAO, 1996d, p. 3). The GAO identifies 26 employment-focused programmes, and a further 57 related to employment. A central criticism made by the GAO is that the effectiveness of these schemes has been subject to little or no evaluation. Analysis by Berkowitz (1996) shows that federal government operates 117 programmes serving the needs of persons with disabilities, at an estimated cost of \$185 billion for 1995. Over 90 per cent of this spending is on health and income maintenance and support.

The place of social security benefits in encouraging and facilitating return to work has received particular attention, 'SSDI and SSI programs should not be viewed as exclusive and permanent sources of income to the person with disabilities. They should, in every case possible, be used as stepping stones to improving a person's economic condition' (SSA, 1994).

Evolution of disability employment policy

Federal legislation for integrating disabled people into the workforce has a long history. In its initial development, legislation tended to be concentrated upon provision for war veterans (for example the Smith-Sears Act of 1918). The Social Security Act of 1935 (P.L. 74-271) provided the first authorised funds for the vocational rehabilitation training programmes for civilians. Legislation has gradually progressed from assistance to disabled veterans to assistance to disabled civilians. A concern for persons with physical

disabilities has shifted to a concern for all types of disabilities (Reed, 1992).

There exists in the USA a series of civil rights type legislation beginning in 1973 and culminating in the Americans with Disabilities Act 1990 (ADA). The ADA reflects deeply held American ideals, about the contributions individuals can make when free from discriminatory attitudes and practices (Bray, 1992).

Disability programmes of the Social Security Administration have changed very little over recent years. A major change, however, has been the development in the private sector of the 'disability management' process, encouraged by a realisation that the full cost of disability may be between six and 12 per cent of the total payroll (Hunt et al., 1996). During the 1970s and 1980s, because of heightened awareness of disability costs in the business community (Hunt et al., 1996), workers compensation schemes and other disability management programmes became important areas of management concern.

Policy-making and implementation

A number of federal authorities are involved in the implementation of legislation, programmes and services aimed at integrating disabled people into the workforce:

- The Labor Department is responsible for Employment Services, the Job Training Partnership Act, Disabled Veterans Outreach Program, and Veterans Employment Program.
- Social Security Administration is responsible for the delivery of disability benefits (DI/SSI) and the use of benefit incentives to encourage disabled people into work.
- The Rehabilitation Services Administration (RSA) functions as part of the Department of Education and is responsible for the development of national policies to assist people to prepare and engage in employment. The delivery of services to disabled persons is mainly devolved to state level. States receive federal funds but can also add to these with their own provision.
- The Veterans Agency provides Vocational Rehabilitation for Disabled Veterans and Vocational Training for Certain Veterans Receiving VA pensions.
- The Department of Education is responsible for the Projects With Industry scheme.

The National Council on Disability (formerly the National Council on Handicap) is an independent federal agency, appointed by the President, which advises the President, Congress, and the Rehabilitation Services Administration commissioner on issues relating to disability, and is also involved in policy review and evaluation.

Employment promotion for disabled people is the responsibility of the President's Committee on the Employment of People with Disabilities. This Committee is a public-private partnership of national and state organizations, and individuals working together to increase employment opportunities for disabled persons. Its position is that of an independent federal agency, and it acts as adviser to the President and recommends information that can be used by employers and others regarding the employment of disabled persons.

DEFINITIONS OF DISABILITY

Under Section 505 of the 1973 Rehabilitation Act the term 'Handicapped' individual is defined as:

Except as otherwise provided in subparagraph (B), the term "individual with handicaps" means... any person who (i) has a physical or mental impairment which substantially limits one or more of such persons major life activities (ii) has a record of such an impairment or (iii) is regarded as having such an impairment.

The full definition of disability under the terms of the ADA is similar: ‘a) a physical or mental impairment that substantially limits one or more of the major life activities of such an individual; b) a record of such an impairment; or c) being regarded as having an impairment.’ The definition of disability does not include the categories of illegal drug use, homosexuality and bi-sexuality and a category of sexual behaviour disorders.

STATISTICS

Extensive data on the numbers of disabled persons are available for the United States. However, different definitions of disability, combined with differences in measurement techniques, result in estimates ranging from 3.5 million to 49 million (GAO, 1996d). Some believe disability statistics lag behind many areas of health and social statistics (National Council on Disability, 1996). No national survey regularly gathers information about the nation’s disabled population, and, as suggested, there is no single agreed definition of disability. Table US.1 shows numbers of people reporting impairments in the annual health interview survey of US households in 1992.

In addition:

- The Center for Disease Control estimates that one or two per cent of the non-institutionalised population are persons with mental retardation and two out of every 1,000 persons have cerebral palsy.
- The National Center on Health Statistics reports that approximately 1.4 million people in the USA use wheelchairs.
- The Interagency Committee on Learning Disabilities, in its 1987 report to Congress, estimates that five to ten per cent of the population or 12 to 25 million people have learning disabilities.
- According to the Center for Psychiatric Disabilities at Boston University, 2.5 million people have severe long-term mental illness.

Table US.1 Total number of people who reported impairments

Impairment reported	Number	Number per 1000
Hearing impairments	23,296,000	94.7
Visual impairments	7,525,000	30.6
Speech impairments	2,285,000	9.3
Arthritis	30,833,000	125.3
Epilepsy	1,174,000	4.8
Missing extremities (excluding toes and fingers)	1,232,000	5.0
Partial or complete paralysis	1,445,000	5.9
Diabetes	6,232,000	25.3
Hypertension	27,129,000	110.2
Heart disease	19,307,000	78.5
Kidney trouble	3,061,000	12.4
Back injury	17,308,000	70.3

Source: National Center for Health Statistics Annual Health Interview Survey of U.S. Households. Statistics distributed by President's Committee on Employment of People with Disabilities, 1992.

Employment rate of disabled people

Calculating the employment rate of disabled people depends on the survey and the definitions that a particular survey uses. The census report *Americans With Disabilities: 1991/2*, published in January 1994, explored America's 48.9 million disabled people. Of this figure only 14.3 million were employed; 24.1 million of the total had severe disabilities.

Working-age adults with a disability in the US Census Bureau are defined via the question, 'Does anyone in the household have a health problem or disability which prevents them from working or limits the amount or kind of work they can do'. According to this definition 14,648,000 have a work disability, of whom 4,250,484 are employed and 10,397,000 are not employed (1991).

Many jobless disabled people would prefer to work; 42 per cent of disabled people without jobs in the NoD Harris Survey of Americans with Disabilities (conducted for the National Organisation on Disability) said they would prefer to work and would be able to do so (cited in GAO, 1996d). According to 1990 census figures, disabled people are nearly twice as likely to have less than a high school education (40 per cent compared to 21 per cent). Similarly, individuals without impairments were more than twice as likely to have a college degree or above - 21 per cent compared to nine per cent (Cited in GAO, 1996d).

A recent study indicated that 43 per cent of younger disabled people remained unemployed for three to five years following high school; 36 per cent drop out of school before receiving a diploma or certificate; and fewer than 17 per cent gain access to post-secondary vocational or educational programmes (NIDDR, 1994).

EMPLOYMENT SUPPORT SERVICES

Mainstream Employment Services

Mainstream Employment Services fall under the auspices of the Department of Labor. State-federal employment services have to give particular attention to disabled people; at least one member of staff in each local office is designated to help disabled people. In 1994, employment services assisted 625,133 disabled people (3.3 per cent of the total Employment Services clientele).

Vocational rehabilitation

Vocational services within the United States are federally funded, although provision is mainly a state responsibility. The Vocational Rehabilitation (VR) Services Program is laid out in Title I of the Rehabilitation Act 1973. The Act made provision for the use of funds and for delineating priority groups for services. Reed (1992) points to the significance of the omission of the word 'vocational' from the name of the Act, and observes that 'for the first time, a priority was established to serve the most severely disabled persons and to view sheltered workshops as suitable places for employment of persons with severe disabilities who could not become competitive workers' (p.401).

The Rehabilitation Act authorises federal allocations on a formula grant basis (except for the costs of constructing rehabilitation facilities); the state matches 21.3 per cent of the amount it receives from federal funds (GAO, 1996d). The Act requires each state agency to submit a plan for federal approval every three

years in order to receive funds. Various departments count as agencies for the purposes of rehabilitation: one half of agencies are in multi-programme agencies such as Departments of Human Resources, whilst a quarter are in state Departments of Education. There are a total of 80 vocational rehabilitation agencies funded by the federal government. Half of the states have two agencies - one serving blind and visually impaired people, while the second serves individuals with other impairments (Barnow, 1996).

In 1995, the programme received federal funds of \$2,054,000,000 (Berkowitz, 1996). Vocational rehabilitation programmes receive 90 per cent of the funds appropriated under the Rehabilitation Act (Hearne, 1991). Table US.2 shows federal spending on VR services from 1990.

Table US.2 Federal spending on VR services 1990-1995

Year	VR budget \$
1990	1,524,677,000
1991	1,628,543,000
1992	1,783,530,000
1993	1,873,476,000
1994	1,967,630,000
1995	2,054,000,000

Source: Department of Education Web site (1996)

Both public and private agencies offer vocational rehabilitation. Public providers offer services to all persons meeting their eligibility criteria. Public provision tends to serve disabled people or people who become disabled in situations other than on the job, whereas for-profit rehabilitation companies work largely with workers' compensation claimants who have incurred on-the-job injuries. Their fees are paid primarily by insurance carriers and the demand for services springs from employers' needs for quick rehabilitation that can enable a worker to return to a job as soon as possible. In March 1994, the Social Services Administration revised its regulations to allow the private sector to compete for VR business, if, after four months, a VR agency does not take the case on (Berkowitz, 1996). State employment services, for persons who have some previous work experience, are available and work very closely with state vocational rehabilitation agencies.

A number of other programmes support the Basic State Grants for Vocational Educations. For example, the Special Projects and Demonstration Efforts programme funded 11 new grants and 87 continuation projects in supported employment during 1994. Other federal programme grants go to Native American Tribes for vocational services. Individuals who become disabled as a result of, or during, military service, are most often provided rehabilitation services by the US Department of Veteran Affairs. These provisions are discussed later in the text.

Services

Services that can be offered with VR funds include:

- job training
- assessment
- counselling
- maintenance during rehabilitation
- personal assistance
- placement or rehabilitation technology
- assistance in operating a business.

To use vocational rehabilitation services clients must first apply for the programme, either through their own initiative or through referral by a social service agency. The State Vocational Rehabilitation Agency accepts referrals from any source and includes services to high school students or graduates who are not ready for the workplace due to a disability. Acceptance to a VR programme requires that the client has a medically certified physical or mental impairment; that the impairment presents a vocational handicap; and that the handicap can be remedied through appropriate service provision (Dean and Dolan, 1991).

Assessing the individual's aptitudes, abilities and attitudes is the first part of the process of vocational rehabilitation that takes place within the state. This provides information needed to set up a rehabilitation plan, which may include physical, occupational, speech or hearing services.

The emphasis of VR programmes is on providing services to more severely disabled individuals; about 70 per cent of all persons served are severely disabled (RSA, 1991). Services help individuals prepare to engage in gainful employment to the extent of their abilities.

State organisations also offer work activity centres where the focus is on preparation for sheltered work, training or transitional employment. Sheltered workshops enable people to engage in remunerative work under the kinds of conditions that are to be found in a regular job. Transitional employment centres are about the closest available to regular employment.

According to RSA statistics, state agencies 'rehabilitated' 202,831 persons in 1991, a 6.1 per cent decrease from 1990. In all, the VR programme served 941,771 persons. The majority of persons who are considered 'rehabilitated' receive services purchased by the agency (88.2 per cent). Nearly half (48.1 per cent) of the clients were provided services directly by the state agency (RSA, 1991).

Information on the type of services provided is most complete for the 202,831 clients whose cases were closed in 1991 as successfully rehabilitated. The average time from application to closure for this group was 22 months. Agency outlay for services provided amounted to an average of \$2,518 per successful rehabilitation (compared to \$1,573 in 1988). Of those rehabilitated, 94 per cent received evaluation services; 54 per cent had training, personal adjustment and on-the-job training; 40 per cent had restorative services; and 34 per cent job placement services (cited in Barnow, 1996).

Effectiveness of VR

The effectiveness, or otherwise, of VR services has attracted a great deal of attention. The General Accounting Office has been very critical of VR outcomes, noting an average of only one in every 1,000 beneficiaries of disability benefits rehabilitated in a year (GAO, 1996a). The measure of success used by VR services - that an individual must be in a job for at least 60 days - is considered insufficient. This critical view is supported by other commentators: 'The inability to rehabilitate persons after they had been declared eligible for DI retirement pensions... marks a major failure of modern disability policy' (Berkowitz and Dean, 1996, p.223).

Hearne (1991) reports that participants of VR programs gained \$5.55 in lifetime earnings for every dollar spent, and for every dollar spent on Vocational Rehabilitation, \$11 is contributed to the tax base. The service, however, is not integrated with other incentive and support systems, while eligibility criteria, complexity of administration and waiting lists result in further difficulties (Hearne, 1991). Other criticisms are voiced around states' policies of limited referral and 'creaming', whereby agencies select clients who are likely to show the greatest impact after services have been used. This may conflict with the stated aim of provision of services for those with more severe disabilities, and may disadvantage the position of the long-term unemployed (Dean and Dolan, 1991; GAO, 1996a). The lack of monitoring of the state referral process, and the ineffectiveness of reimbursement systems in motivating VR agencies to recruit benefit recipients, are highlighted (GAO, 1996a). Like other federal-state programmes, Vocational Rehabilitation leaves considerable discretion to state officials.

Rehabilitation programmes for veterans

The US Department of Veteran Affairs (VA) provides a special programme of training and rehabilitation services for veterans with service-connected disabilities who meet certain requirements for eligibility and entitlement. Most of the veterans in the programme acquire training and skills by attending colleges, technical schools, or other educational facilities. Although these veterans may meet the general requirements of a particular occupation, they may lack specific types of skills or training or the work experience necessary to begin employment. In these cases, the VA Department can pay the employer up to one-half of the veteran's salary while the veteran is obtaining additional training or acquiring work experience. Generally the period of training or work experience may not exceed nine months.

The VA Department can also provide on-the-job training for veterans in occupations for which they have shown aptitude and ability, and which are within their physical capacity. The duration of the on-the-job training can be from six months to four years. During the training period, the employer pays the veteran the same amount paid to a non-veteran training for the same position. The VA Department supplements the trainee wage with additional monthly payments to minimise the difference between the trainee wage and the regular wage for the job.

The VA Department also provides a variety of goods and services, such as tools and equipment, to enable trainees to function better on the job. It will also assist an employer making reasonable accommodation. Specialised services such as transportation, readers for veterans with visual impairments and interpreters for veterans with hearing impairments may be provided while the veteran receives employment services. Federal support of \$298,132,000 went to the Vocational Rehabilitation for Disabled Veterans in 1995 (Berkowitz, 1996). In 1995, 48,000 disabled veterans received vocational rehabilitation services.

Other specialist provision

Provision for blind people

The Randolph-Sheppard Vending Facility Program aspect of the VR programme is authorised by the Randolph-Sheppard Act and funded at the discretion of State VR agencies with the use of VR services programme funds. This programme received funds of \$26,700,000 (section 110 funds). This aspect seeks to provide remunerative employment for individuals who are blind, through the operation of vending facilities on federal and other property. In 1991, 3,513 blind vendors operated 3,337 vending facilities. The average vendor earnings were \$24,331. Since its inception in 1936 over 22,000 blind persons have been employed in this program. In 1991, 420 blind persons trained to become vendors, whilst 218 were placed as licensed vendors.

Migrants and American Indians

Other specialist provision includes the Handicapped Migratory and Seasonal Farmworkers programmes, and specialist services to disabled American Indians which aim to support projects providing vocational rehabilitation services to American Indians with disabilities who live on federal or state reservations.

Severely disabled people

The OECD (1992) notes the trend for voluntary organisations with specialist expertise to be active in service delivery. One such example is the National Association of Retarded Citizens On-the-Job Training Program which provides for reimbursement of 50 per cent of entry wage for the first 180 hours of on-the-job training, and 25 per cent of entry wage for the second 180 hours. To qualify the worker must be considered 'mentally retarded' with an IQ below 80, at least 16 years' old, and unemployed over seven days. Positions must be permanent, full-time and with pay above the minimum wage (President's Committee on Employment of People with Disabilities, 1992).

The Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals

with Severe Handicaps received federal funds of \$19,900,000 in 1995 (Berkowitz, 1996). The purpose of the programme is to provide financial assistance to states and other public and private agencies and organisations for expanding or improving vocational and other rehabilitation services for individuals with severe disabilities, irrespective of age or vocational potential.

Young people

The National Transition Alliance for Youth with Disabilities (NTA) was jointly funded in October 1995 by the United States Department for Education, the National School to Work Office, and the United States Department of Labor, to promote the transition of young people with disabilities towards desired post-school experiences, including gainful employment, post-secondary education and training, and independent living. The NTA aims to:

- improve transition services and results
- build state capacity to plan and implement effective school-to-work practices
 - build integrated systems that recognise the importance of aligning structures, policies, and procedures to support youth with disabilities.

The NTA provides technical assistance to create a bridge between personnel working on planning and implementing School-to-Work Opportunities Systems and a broad range of model programmes, including those funded by the Office of Special Education and Rehabilitation Services.

Federal employees

The Office of Personnel Management operates the Selective Placement Program which provides federal agencies with assistance in placing federal employees who have become disabled, and in recruiting disabled employees to federal service (GAO, 1996d).

Supported employment

Challenges to the philosophy of sheltered work have encouraged the development of supported employment as an alternative service delivery model. Growth of supported employment was also encouraged by the increased numbers of severely disabled individuals requiring innovative solutions to employment and training. Supported employment was first formally defined in the Rehabilitation Act Amendments of 1986 (P.L.99-506) which provided grants to assist states in developing and implementing supported employment for severely disabled individuals. The Act also defined different types of supported employment models.

Supported employment may be defined as competitive, employer-paid work in integrated work settings in which the continuous support is provided for those who have not traditionally experienced competitive employment (Konig and Schalock, 1991). These support services may be needed on a long-term or time-limited basis until the employment stabilises (Hearne, 1991). Since 1987, supported work programmes have been eligible for modest federal support under the Rehabilitation Act.

The President's Committee on Employment of People With Disabilities describes three kinds of supported employment:

Individual placement: the key features are that individuals are placed in integrated employment sites, with the worker receiving ongoing training and advocacy from a job coach.

Enclaves: this model consists of small units of disabled persons working with special training or job support within a host company.

Mobile work crews: the key features of this model are small single-purpose groups of workers that work in different locations.

Projects and funding

There are various measures that enable the funding of supported employment. First, states can draw on their basic Vocational Rehabilitation Program funds generated under Title I of the 1973 Rehabilitation Act. In 1990, state vocational rehabilitation agencies spent approximately \$35,000,000 in Title I funds for supported employment. So-called change grants were given in 1986-7 which had a substantial impact on the growth of supported employment. The Special Projects and Demonstrations for Providing Supported Employment Service was allocated \$9,079,906 in Title III federal funding for Statewide Demonstration Projects (17 projects which aim to change sheltered to supportive provision) and Community-Based Projects (12 projects which aim at encouraging innovative practice).

Another major source of funds is the State Supported Employment Services Program (Title VI (c) funds) which received federal funds of \$36,536,000 in 1995 (Berkowitz, 1996). This formula grant programme provides state VR agencies with financial assistance to develop and implement collaborative programmes with appropriate public and private non-profit organisations. The programme is intended, to enable state VR agencies to provide individuals with severe disabilities with traditionally time-limited post-employment services that lead to supported employment. The state VR agency is responsible for the administration of the programme and for establishing co-operative agreements or letters of understanding with private sources or other public agencies in which the commitment for extended services for long-term job support is secured. One of the eligibility criteria for supported employment is based upon each participant's inability to function independently in mainstream employment services without intensive extended job support services. A disabled person may, for example, make use of the intensive support of a job coach.

Other supported employment funds come from general state revenue (including the state matching to federal funding). Funds also come from Mental Retardation/Development Disability Agencies, Mental Health Agencies, and some come from Medicaid and Education.

Since its inception in 1985, supported employment has evolved into an integral part of the state-federal vocational rehabilitative programme. The survey of Supported Employment Implementation (Virginia Commonwealth University, 1991) indicated that approximately 70,000 individuals were receiving services through local supported employment programmes in the 1990 financial year (taken from Department of Education: National Institute on Disability and Rehabilitation Research; certain Rehabilitation Research and Training Centers; Proposed Funding Priorities for Fiscal Years 1993-1994). A 1994 source (cited by Bennie, 1996) reports 110,000 individuals using supported employment services.

Evaluation

Evidence about the performance of these programmes is sketchy (Hearne, 1991). In an 1989 study of over 500 organisations, 73 per cent of their supported employees received salaries within the normal range (Hearne, 1991). Supported employment can meet the needs of individuals with psychiatric disabilities or severe mental disabilities. Goldberg et al. (1990) comparing a system of supported employment and a traditional sheltered system for persons with developmental disabilities, conclude that those in supportive work did significantly better in the competitive labour market than did clients in sheltered employment.

Revell et al. (1994) examined the national programme and outcome data associated with state implementation of supported employment. They found that 74,960 individuals participated in 1991. Mental health and mental illness formed 62.8 and 22.2 per cent respectively of impairments in all supported placements; visual and hearing impairments were 3.1 per cent; brain injury 2.1 per cent. Individual placement was the dominant model. Those employed received an average wage of \$4.45 per hour and a mean of \$111.44 week. The total of VR funds was \$74,860,404 with non-VR funds of \$160,164,338. According to NIDRR (1993) there are criticisms that more effort should be directed towards more severely disabled people. Only 12.2 per cent were severely disabled.

The lack of information around the effectiveness of programmes is a major issue (GAO, 1996d). For example, although supported employment service providers are required to provide detailed information on

programme participation performance and initial placement, they are not required to track individuals after an 18 month period. Thus, any long-term assessment of linkages between training and employment is difficult to make.

There are other criticisms of supported employment, including the limited nature of federal financing (GAO, 1996). Support mainly comes from two programmes; one aids state programmes, the other finances projects directly. Also, some state programmes receive funding through health services.

Projects with Industry (PWI)

Projects with Industry seeks to provide links between business, industry and rehabilitation service agencies with the aim of facilitating meaningful employment and releasing untapped potential of disabled persons. As the RSA states, 'The purpose of the PWI program is to create a unique partnership between business, industry, labor, and the rehabilitation community, ultimately leading to competitive employment for individuals with disabilities' (1991, p.102). It seeks to create and expand job opportunities for disabled people within the competitive labour market.

PWI is one of the few federal efforts that engages the private sector as a partner in increasing the employment opportunities for disabled people (GAO, 1996d). PWI consists of three essential elements: a linkage to the private sector (in the form of an advisory council), a training site (a rehabilitation facility), and a source of disabled people (usually a state VR agency). The projects deliver a wide range of services tailored to meet the employment needs of different client groups with physical and mental disabilities, representing varied occupational and educational backgrounds. Each project is required by law to have a Business Advisory Council.

Although services provided under the scheme vary, they generally include evaluation, counselling, training, job development, and job placement. Grants may go to individual employers, state vocational rehabilitation units, and public and private organisations.

There have been various amendments, in 1973, 1978 and 1984. Since its establishment, there have been a number of changes; state vocational rehabilitation agencies can receive funding, for example. There has also been the introduction of evaluation standards to assist PWI grantees to review and evaluate the operation of their projects.

In 1986 amendments aimed 'to promote opportunities for competitive employment of individuals with handicaps, to provide appropriate placement resources, to engage the talent and leadership of private industry as partners in the rehabilitation process, to create practical settings for job readiness and training programs, and to secure the participation of private industry in identifying and providing job opportunities and the necessary skills and training to qualify disabled people for competitive employment'.

In 1991, over 13,000 individuals with disabilities became competitively employed with an estimated average earnings of \$205 a week (RSA, 1991).

Job Training Partnership Act Funds

The Job Training and Partnership Act of 1981 (JTPA) (P.L. 97-300) has attempted to locate employment for disabled persons in private industry. The goal was to train and place individuals who are 'economically disadvantaged' in the labour market. It is a joint venture between the public and private sector, with the administration of the programme being carried out by the Governor's office in each state. JTPA is the largest

federal job placement and training programme.

The programme is not targeted specifically to disabled individuals. Individuals who meet the income criteria are eligible for services. In addition, up to ten per cent of JTPA service recipients may be individuals who are not economically disadvantaged within the meaning of the statute but who have encountered barriers to employment; this group includes disabled persons. Disabled adults (22 years or older) and younger people (16-21 years old) are economically disadvantaged if they meet the criteria and definitions set down by the federal, state, or local welfare system. The JTPA can set up on-the-job training at worksites and reimburses employers for 50 per cent of the first six months of wages for each employee who is eligible for the programme.

There are 28 services that can be provided, including job recruiting; counselling in workskills; on-the-job training; programmes to develop work habits; assisting with the transition from education to work; providing services to those placed in unsubsidised jobs; and developing a customised training/retraining programme. The agreement with the employer is that the trainee is to be hired with the intent of a permanent full-time position. For the most part, JTPA funds benefiting disabled persons have been used to place persons with mild and moderate disabilities in community jobs.

According to the Department of Labor, about 481,600 individuals completed the programme in 1993, of whom 14.2 per cent were disabled. Disabled people earned on average 6.5 per cent less once employment was secured, compared to non-disabled individuals (US Department of Labor, 1993).

OPEN EMPLOYMENT: LEGAL OBLIGATIONS AND RIGHTS

Title IV of the Civil Rights Act (Public Law 88-352) 1964 prohibits discrimination against persons on the basis of race, colour, or national origin, but not against disabled people. The Act, however, became the model for later legislation aimed at assisting disabled persons to achieve full citizenship.

1973 Rehabilitation Act

The 1973 Rehabilitation Act had two thrusts.. As outlined above, it formed the statutory basis of service provision to disabled people and the workforce. Secondly, it dealt with the rights of disabled people in the federal workforce. Indeed, the 1973 Rehabilitation Act was the first act that spelled out the rights of disabled people. Various sections of the Act made prohibitions concerning discrimination against otherwise qualified persons in the areas of federal agencies themselves (section 501), federal contractors (section 503) and recipients of federal financial assistance (section 504).

These regulations covered all federal agencies. Regulations were required to be produced by the head of each federal executive. However, the first regulations for enforcement were produced only in 1978. The nature of the various provisions is elaborated below.

Section 503: Employment under federal contracts

Section 503 requires employers doing business with the federal government, under a contract in excess of \$2,500, to take affirmative action to employ disabled individuals.

Federal contractors are also required to make reasonable accommodations to the physical or mental limitations of qualified disabled people. This applies to contracts awarded by federal agencies and sub-contracts awarded by prime contractors. Employers with federal contracts of \$50,000 or more and over 50 employees must prepare, implement, and maintain a written affirmative action programme for each

establishment (RSA, 1991).

The Office of Federal Compliance Programs (OFCP), situated within the US Department of Labour, is responsible for implementing and enforcing section 503 of the act. The OFCP works through ten regional offices located in the federal regions. The OFCP has designated the Equal Employment Opportunity Commission as its agent for complaints that are within the jurisdiction of both section 503 and, as will be discussed later, the Americans with Disabilities Act (RSA, 1991). In 1991, 918 complaints were investigated under the auspices of Section 503.

Section 501

Section 501 (9(b)) 'requires all federal agencies to submit affirmative action plans for the hiring, placement, and advancement of handicapped individuals' (1973 Rehabilitation Act).

The idea was that federal employers must show themselves as model employers. Initially, however, there was no section 504 for federal employers and discrimination was not illegal. It took a later amendment to enable persons to be protected against discrimination on basis of disability.

Section 504: Nondiscrimination in federally-assisted and federally-conducted programs and activities

When Congress passed section 504 of the Rehabilitation Act it was the first time it had addressed the employment-related problems of disabled persons (Morin, 1990). Section 504 prohibits discrimination against 'otherwise qualified' disabled people under any programme or activity receiving federal financial assistance. It has detailed standards governing the responsibilities of employers to disabled applicants and employees. These regulations require employers to determine the competence of disabled applicants or disabled employees to perform the 'essential functions' of jobs, with or without 'reasonable accommodation' for 'otherwise qualified' disabled individuals. A reasonable accommodation is any mechanical, electrical, or human device that compensates for an individual's disability. Under section 504 they must make accommodations unless this imposes 'undue hardships' (Morin, 1990; Tucker and Goldstein, 1991).

This section of the Act is dealt with by the Civil Rights Division of the Department of Justice. The Division reviews all proposed civil rights regulations for consistency, adequacy and clarity, and assists federal agencies in the development of appropriate regulations.

Enforcement

The Equal Employment Opportunity Employment Commission (EEOC) is responsible for enforcing nondiscrimination and affirmative action provisions around the federal employment of disabled persons. The Interagency Committee on Employment of People with Disabilities has responsibility for co-operating with and assisting the EEOC in its efforts to ensure that federal agencies in the executive branch are in compliance with federal laws regulations for hiring, placement, and advancement of disabled persons.

Although the 1973 Rehabilitation Act was an important step, a clear limitation was its failure to prevent the majority of private employers from discriminating against disabled people. Failure to circumscribe strictly the meaning of many of the Act's terms opened the way for long litigation procedures. In considering the effectiveness of the legislation, Tucker and Goldstein (1991) believe that, 'at the outset 'reasonable accommodations' must be distinguished from 'affirmative action'.. Affirmative action, which is aimed at remedying past discrimination, would require employers and program administrators affirmatively to seek to hire or accept disabled persons. Section 504, however, does not contain an affirmative action requirement.. Rather, Section 504 merely requires that 'employers and program administrators reasonably accommodate disabled persons to eliminate existing barriers' (p.100).

Kim (1996) examines the employment and advancement of disabled workers in the federal government, exploring grade, level, placement and advancement. He notes that the total federal workforce is declining but the number of disabled people employed within it is rising. Disabled people generally have lower graded

positions in the federal workforce and lower promotion rates, and are less likely to be in professional and administrative positions. He concludes, 'Although the number of disabled employees is gradually increasing in federal government, there is no significant evidence of progress toward equality in job advancement' (p.82). Disabled individuals who are either non-white or have low education are particularly disadvantaged.

Americans with Disabilities Act (P.L. 101-336)

The American With Disabilities Act (ADA) was passed in July 1990. It aimed to rectify some of the shortcomings of the 1973 Rehabilitation Act.

The National Council on Disability had issued reports in 1986 and 1988, recommending comprehensive civil rights legislation, which helped create momentum for change (Morin, 1990). The ADA was a comprehensive measure dealing with a number of areas including employment and access to goods and services. Title I, concerning employment issues, formed the centrepiece of the legislation.

Title I of the ADA picks up where section 504 of the 1973 Rehabilitation Act left off, by extending to the private sector the illegality of employment discrimination against disabled persons. Title I is consistent with the statutory language of section 504 and the regulatory language implementing the section. By borrowing the language from Title VII of the Civil Rights Act of 1964 it also provides enforceable standards to prevent discrimination. The ADA states (ss. 107):

'The powers, remedies, and procedures set forth in...the Civil Rights Act of 1964 shall be the powers, remedies and procedures this title provides to the Commission, to the Attorney General, or to any person alleging discrimination on the basis of disability in violation of any provision of this Act, or regulations promulgated under section 106, concerning employment'.

The definition of disability in section 3(2) of the ADA mirrors that found in section 7(8)(B) of the 1973 Rehabilitation Act. Congress patterned the ADA's substantive framework after section 504 of the Rehabilitation Act and the Act's procedural framework mirrors part VII of the Civil Rights Act of 1964 (Gannon, 1991).

The ADA covers employers, employment agencies, labour organizations and joint labour-management committees. From July 1994 the law applies to all employers employing 15 or more people. (From July 1992 to July 1994, it applied to employers with 25 and more employees.) The EEOC estimates that 86 million workers, representing 86 per cent of the workforce, are covered by the law.

Provisions of the Act

Under the provisions of the ADA, employers must adopt unbiased hiring and promotion criteria and make reasonable accommodations for the known limitations of disabled individuals, unless this will cause undue hardship. This is enforced by the EEOC which has the authority to use the remedies and procedures established under Title VII of the Civil Rights Act of 1964 and section 504 of Rehabilitation Act as its model.

Unlike Title VII of the Civil Rights Act, where the employer is prohibited against discriminating in hiring and promotion, under the ADA the employer has to make accommodations.

The Act seeks to establish non-discriminatory selection criteria in two respects: employment selection procedures; and ensuring tests focus on the applicant's aptitudes and skills rather than the applicant's impairment. The Act prohibits various types of discrimination including limiting, segregating, or classifying individuals, entering into discriminatory contractual relationships, using methods that perpetuate discrimination, discriminating against persons in relationships with disabled persons, and not making reasonable accommodation. All employment decisions are covered, not just those involving hiring.

Employers, in turn, are expected to ask employees what is needed in terms of accommodation.

The key definitions laid out in the Act are those around reasonable accommodation, undue hardship, and essential functions.

Reasonable accommodation

The ADA defines a number of modifications that can be considered ‘reasonable accommodations’:

- modifying the physical layout of a job facility so as to make it accessible to individuals who use wheelchairs or who have other impairments that make access difficult
- restructuring a job to enable the disabled person to perform the essential functions of the job
- establishing a part-time or modified work schedule (for example, to accommodate disabled people who have treatment needs or fatigue problems)
- reassigning a disabled person to a vacant job
- acquiring or modifying equipment or devices (such as buying a hearing telephone amplifier for a person with a hearing impairment)
- adjusting or modifying examinations, training materials, or policies (for example, giving an application examination orally to a person with dyslexia or modifying a policy against dogs in the workplace for a person with a service dog)
- providing qualified readers or interpreters for people with vision or hearing impairments.

The reasonableness of accommodation will depend on the facts in each case. The most significant point about the requirement to accommodate is that it must be individualised (West, 1991 p.8).

Morin (1990), writing of differences between the ADA and 1973 Act, states, ‘Title I applies to private employers that may not receive governmental funding to offset the costs of accommodation. Section 504, however, applies to federal employers or employers that receive federal funds. Thus, employers subject to Section 504 may have been more willing to comply with that section because government funds may have paid directly for any accommodation costs’.

Undue hardship

The act defines undue hardship as an action requiring significant difficulties or expenses for employers. What this actually is depends on the overall size of the operation, facilities, employers, type of operation and the budget. Because what is to count as undue hardship provision will depend on the particular employer, the courts decide this on a case-by-case basis. That is, undue hardship is a relative standard considered in relation to employers and the objectives of the Act.

A 1982 study of federal contractors covered by section 504 of the Rehabilitation Act indicated that contractors implemented these accommodations at little or no cost. This helped to stall potential criticism from private contractors that the ADA would prove to be a great financial burden.

Job application process under the ADA

Under the ADA there is a limit to the type of inquiries that can be made of job applicants. One of the Act’s aims was to increase the number of disabled job applicants in the labour market (Gordon, 1992). The ADA seeks to remove stereotypical notions about disability from the job application process by requiring employers to base hiring decisions on individualised evaluations of the qualifications of disabled job applicants, rather than on preconceived notions about the limitations that a particular disability might create. This is to be achieved in two ways.

First, it prohibits employers from inquiring into the medical condition of a job applicant before making a job offer. Thus an employer cannot ask about a disability on an application form, or at interview - even if the disability is apparent. A medical examination may be conducted only after an offer of employment has been made, and before employment begins. The job offer may be conditional on the examination but must be

relevant to the essential functions of the job. Any examination must be relevant to an essential function of the job, but the examination must be applied to all people and the results must be confidential. The job offer can only be withdrawn if the requirements cannot be met despite the use of reasonable accommodation. Clauses prevent a job being offered if the offer threatens the safety of the applicant or co-workers.

Secondly, persons who are to be considered for a position must be able to perform the essential functions of the job. What these are will depend on the number of other employees available to perform a job function or among whom a job function can be distributed. Employers are not required to lower standards, by having to hire unqualified job applicants (Gordon, 1992). The provisions of the Act do not seek to give any preferential treatment within competition for jobs, rather the Act concentrates on the concept of the 'qualified individual'. This asks the question 'can you perform the essential job-related functions - with or without an accommodation?'

Remedies

'The powers, remedies, and procedures set forth in sections 705, 706, 707, 709, and 710 of the Civil Rights Act of 1964 shall be the powers, remedies, and procedures this title provides to the [Equal Employment Opportunity] Commission, to the Attorney General, or to any person alleging discrimination on the basis of disability in violation of any provisions of this Act, or regulations promulgated under section 106, concerning employment' (ADA).

Under title VII a charge must be laid within 180 days of the alleged act with the Equal Employment Opportunity Commission. A charge of discrimination is filed by contacting an Equal Employment Opportunity Commission field office, located in cities throughout the United States. The EEOC will then investigate and, if it finds the charge justified, it will direct the employer to refrain from the action. The emphasis of the EEOC is always to attempt informal conciliation; if this is not successful it can, however, bring a suit. The way that the ADA interfaces with state law such as anti-discrimination legislation varies and its impact is different in every state. For example, a person may have up to 300 days to file a charge if there is a state or local law that provides relief for discrimination on the basis of disability.

If the court finds the employer has engaged in unlawful practices it can issue an injunction stopping the employer from engaging in the unlawful employment practice. The court can also order the reinstatement of employees, the hiring of employees or any other relief it believes is appropriate.

The Department of Justice investigates and prosecutes employees discriminated under the ADA against state and local government, while the EEOC is responsible for ADA cases against private-sector employees.

The ADA has some weakness: firms can refuse modification if it results in undue hardship; the Act does not require affirmative action to assist disabled people to attain independence; and the burden is left to disabled people and their advocates to become familiar with how to use the act (Reed, 1992). Concerns were raised about the need to educate persons around the ADA, particularly people living in rural areas, and to provide appropriate information to small businesses serving minority and diverse communities.

More fundamentally, the ADA has no requirement that disabled people receive adequate training and education. Thus, ensuring adequate education, training, and support services are just as important in eradicating discrimination (West, 1991, p.22).

Implementation

Responsibility for providing information on ADA procedures and obligations is organised by the EEOC, the President's Committee on the Employment of Persons with Disabilities, and the US Department of Justice. Numerous publications, fact sheets and telephone help-lines are available to help those understand the

provisions of the Act.

The President's Committee's Job Accommodation Network (JAN), a toll-free service, has been advising businesses and individuals about job accommodation since 1984. Its remit was expanded in 1990 to include ADA information. Subsequently, there has been a large rise in the number of people making use of the network. Nationally, between October 1994 and September 1995, the network received 80,000 calls: 34 per cent were around the understanding of the ADA, and 13 per cent on the impact of job accommodations. The cost of job accommodation reported by those businesses using JAN, were that 19 per cent of accommodations were achieved at no cost, while 50 per cent cost between \$1 and \$500. Only 12 per cent of accommodations cost over \$2,000. Companies reported an average return of \$28.69 in benefits for every dollar invested in making a job accommodation.

A huge amount of attention is focused on how the ADA works in practice. 'The ADA is the most significant piece of labour legislation to be enacted in the last twenty years, but the full extent of the impact on employers will not be known until the courts develop a substantial body of case law interpreting the Act' (Coil and Rice, 1994, p. 504). The first ADA cases are now being reported, although it is too early for an overall appraisal.

Commenting on the number of cases reported in the first 14 months, some believe this reflects how well informed the disability community has been about its rights (Coil and Rice, 1994). Following the ADA, people are increasingly identifying themselves as a minority group.

Between 26 July 1992 and 30 November 1996, 75,600 employment discrimination complaints were filed with the EEO; over half related to unfair discharge from a job, 28 per cent to insufficient job accommodation, ten per cent to unfair hiring practices, eight per cent to unfair disciplinary actions and 12 per cent to harassment (EEOC unpublished data). (Although the Act and EEOC's ADA regulations do not mention disability-based harassment, the EEOC interprets it as being covered in the general prohibitions.)

The high number of complaints relating to hiring, 'tends to substantiate the existence of a large population of unemployed individuals with disabilities who are eager to enter the workforce' (Coil and Rice, 1994, p. 493-4). The ADA, however, will not encourage those on disability benefits or adult SSI programmes to return to work. Rather, 'The hope provided by the ADA is that intervention at the point when a health condition starts to affect job performance will delay job exit, as well as applications for disability benefits' (Burkhauser and Daly, 1996).

There is no list of disabilities covered by the ADA; instead, it gives examples. Only a small number of the conditions commonly associated with disability (vision, hearing, mobility impairment, epilepsy) are part of the charges filed. By 30 November 1996, according to EEOC unpublished data, the most common charges filed related to back impairments (18 per cent), neurological problems (11 per cent), missing extremities (nine per cent), depression (five per cent), other psychiatric problems (five per cent) and heart problems (four per cent). Little attention was paid to mental impairments by employers and in official guidelines preparing for ADA compliance (Coil and Rice, 1994). Mental disabilities have been the most unexpected category, 'in creating job descriptions or otherwise identifying the essential function of a job, employers often overlook the psychiatric demands of the position. That is a big mistake' (Coil and Shapiro, 1996, p.28).

The courts are beginning to interpret some of the key terms of the Act. Reasonable accommodation, for example, need not be an individual's choice, although it must enable a qualified disabled person to perform the essential functions of job, that is, the accommodation must be effective. Employment leave is considered a form of accommodation, but this is not taken to be a completely flexible or open-ended commitment (Coil and Shapiro, 1996). Some complications are evident, with conflicts emerging between EEOC and judicial interpretation of act (Coil and Shapiro, 1996). For example, morbid obesity, considered a disability by the EEOC, has been ruled against by some courts. What counts as 'substantial limitation of major life activity' is

the most important issue currently under discussion.

Statistical evidence is inconclusive on the extent to which the ADA has improved the position of disabled people. Data from the US Census Bureau suggests that the employment rate of disabled people has increased under the ADA: from 23.3 per cent in 1991 to 26.1 per cent in 1994. The Chairman of the President's Committee on the Employment of People with Disabilities called it the 'first true measure of the ADA's impact on the employment of disabled people'.. Previous data from the Current Population Survey, however, showed no such improvement. A further survey cited by the President's Committee on the Employment of People with Disabilities considered there to be a great deal of support for the ADA in American industries.

Disabled people have urged federal Government to play a stronger role in enforcing the Act (National Council on Disability, 1996). Difficulties are occurring because the Department of Justice and EEOC have a severe backlog of complaints. Some problems have arisen with the media reporting fringe cases and presenting the ADA as example of government overregulation. Litigation could be cut by replacing the 'undue hardship' criterion with a rule that specifies a cost cap of what is 'reasonable' (Oi, 1996). Regulations put forward by the EEOC have been criticised for not offering enough guidance (Kim, 1996).

A string of surveys quoted by the President's Commission on the Employment of Persons with Disabilities say there is a great deal of support for the ADA across American industry. The GAO has said it will be evaluating the employment provisions of the ADA, but there is nothing in the public domain as yet.

State and local fair employment statutes

Most states and localities have statutes making it illegal to discriminate against a disabled person, whether it be in employment or in any other area .. Some states have statutes specifically addressing discrimination against people who are physically and mentally disabled, while other states include discrimination against disabled people in a broader Human Rights Act which includes protection for other groups. The common purpose of all state statutes is stating, as a public policy, that disabled people should be given the same opportunities and be treated under the same conditions and privileges as non-disabled people.

Some states are revising their laws to be consistent with provisions of the ADA. However, many states will continue to have different provisions. For example, they cover employers with fewer employees or provide different remedies. Where the ADA provides greater protection its provisions will apply, but where a state or local law provides greater protection, the provisions of that law will apply (President's Committee on Employment of People with Disabilities, 1992).

OPEN EMPLOYMENT: FINANCIAL MEASURES

Congress has often used the Internal Revenue Code as a means of promoting social and economic goals (Schaffer, 1991). Since 1976 Congress has reduced the tax burden of businesses that remove barriers to disabled persons (via section 190 of the Revenue Code), and between 1978 and 1994 it reduced the taxes of businesses that hired certain subgroups of disabled persons (known as the Targeted Jobs Tax Credit (TJTC) which is now defunct). In 1990, after ADA enactment, a new tax credit, the 'access credit', was introduced to provide tax relief to small businesses that incur costs under ADA.

Support for employers

Tax deductions and tax credit

The initial reason for the 1976 enactment was: ‘In spite of previous federal legislation to contend with the problem of architectural and transportation barriers to the handicapped and elderly, such barriers remain widespread in business and industry... Creating a tax incentive for a limited period could promote more rapid modification of business facilities and vehicles’. Under the 1976 Internal Revenue Code, businesses were able to receive tax deductions on spending of up to \$35,000 on changing barriers.

The Revenue Reconciliation Act 1990 added an ‘access credit’ (section 44) to the code which allows small businesses to claim against taxes for half of the first \$10,000 of eligible costs of ADA compliance. An eligible small business is one whose gross receipts do not exceed \$1,000,000 or whose workforce does not consist of more than 30 full-time workers.

The credit includes amounts paid or incurred to:

- remove architectural, physical, or transportation barriers that prevent a business from being accessible to, or usable by, disabled individuals
- provide qualified readers, taped texts, and other effective methods of making materials accessible to people with visual impairments
- provide qualified interpreters or other effective methods of making orally delivered materials available to individuals with hearing impairments
- acquire or modify equipment or devices for disabled individuals
- provide other or similar services, modifications, materials or equipment.

The 1990 provisions differ from those of 1976 in four ways:

Deduction shifted to a tax credit, deduction is subtracted from taxable income whereas a credit is subtracted from tax.

The new provision was allowed only for small business.

The limit on section 190 deductions was reduced from \$35,000 to \$15,000.

More general expenses are covered under the 1990 provisions, especially those in relation to ‘auxiliary aids and services’.

The tax credit is only available to adapt buildings and facilities. It cannot be used in the construction of new ones. The costs it covers must also be considered to be reasonable costs.

Small firms are eligible for both deductions (section 190), and tax credit (section 44), whereas big firms are eligible only for deductions. The new tax credit is more beneficial for a small business and in implementing the measure Congress was clearly directing relief to small businesses.

Targeted Jobs Tax Credit

Like deductions and credit outlined above, the Targeted Jobs Tax Credit (TJTC) was a tax benefit available to employers. It was first enacted in 1978 (Revenue Act of 1978 P.L. 99-600) and renewed regularly since then, but discontinued as of December 1994.. An employer’s credit against tax was 40 per cent of the wages paid to an employee (up to a maximum of \$6,000) during the first year. It was available to an employer who hired from one of ten statutorily delineated groups that are vulnerable to high unemployment.

Most of the cost of the programme derived from the lost tax revenue, estimated at \$81m for 1991 and \$104m for 1992. In 1991 about 500,000 individuals participated in the programme - in 1989 ten per cent were disabled people. No data are available after 1991. Estimates are that eight per cent of individuals benefiting from the TJTC were disabled people (GAO, 1996d). ‘Although TJTC may have certified a significant number of individuals with disabilities, the lack of any evidence showing that the program increased employment or earnings for those certified makes it likely that the program’s expiration has not produced much harm for the US population with disabilities’ (Barnow, 1996, p. 323).

Support for disabled people

Social security work incentives

A number of social security incentives are available aimed at encouraging those in receipt of disability benefits into work. The following are work incentives for SSDI recipients.

Trial Work Period (TWP) permits an individual to maintain cash benefits while he or she makes a work attempt. The intention is to provide beneficiaries with an opportunity to test their work ability without affecting their eligibility for benefits. Under this measure participants are able to maintain cash benefits for nine months of work, which need not be consecutive, and can earn any amount without affecting benefits. A trial work month is any month in which total earnings are more than \$200. After the trial period, cash benefits continue for three months but stop if countable earnings are over \$500 a month. A person is entitled to nine months of trial work within a five year period; the TWP is completed only if nine months of trial work are engaged in the recent 60 month period (GAO, 1996a).

The Extended Period of Eligibility (EPE) was originally established in 1980 (as part of the Social Security Disability Amendments P.L 96-265) but was lengthened in 1988 (P.L. 100-203). This seeks to provide additional protection for individuals who return to work. This period begins after the ninth month of work trial. The scheme provides a period of 36 months under which the beneficiary is re-entitled to cash benefits in any month where earnings fall below the substantial gainful activity level (in 1996, \$500 per month for disabled people, \$960 per month for people who are blind).

Work excluded as not Substantial Gainful Activity (SGA): SGA is used to determine whether or not work is to be disregarded in determining disability during the continuing disability review process. Work below SGA is permitted, in most cases, without affecting a person's entitlement to benefits. These earnings that are disregarded may encourage individuals to seek limited work that will not affect their benefits. The intention is that any limited work attempt may eventually lead to the individual leaving the rolls. Earnings between \$300 and \$500 may be considered substantial amounts.

Elimination of second waiting period: In addition to EPE, beneficiaries who leave Disability Insurance rolls are not required to serve a second five month waiting period for cash benefits if they return to the roll within 60 months. As a work incentive, this provision assures that beneficiaries who are unsuccessful at a work attempt and who meet programme requirements can regain their benefits more quickly.

Extended Medicare eligibility provides for the elimination of a second Medicare waiting period of 24 months. This works as an incentive because a longer-term, but unsuccessful, attempt to return to work, does not preclude a return to full Medicare recipience. If individuals complete a work trial they can retain Medicare coverage for an additional 39 months.

The following are incentives for SSI recipients.

Impairment-related work expenses: Section 302 of the 1980 Social Security Disability Amendment provided that the costs (purchase, maintenance, and repair) of certain items and services required by an impaired person in order to work may be deducted from earnings in determining SGA.

Plan for achieving self-support: Under SSI there is a special rule called a plan for achieving self-support, or PASS. A PASS permits individuals to put aside money and assets towards a plan designed to enable self-support. The money set aside does not reduce SSI payments, and the goal of the plan may be to get a job or start a business.

Effectiveness

Disability benefit programmes are considered to be out of line with attempts to encourage more disabled

people into the labour force. The application process for these benefits places heavy emphasis on work incapacity, and presumes that impairments make people incapable of employment. Between 1985 and 1995, DI/SSI rolls experienced an increase in the proportion of disabled beneficiaries with impairments that kept individuals on the rolls longer (Rupp and Stapleton, 1995; GAO, 1996b). In that decade DI/SSI recipients increased by 70 per cent. By 1994, 31 per cent of DI and 57 per cent of adult SSI recipients had mental impairments (GAO, 1996a). According to the General Accounting Office, ‘...disability programs have remained essentially frozen in time’ (GAO, 1996b, p.4). Despite various work incentives provision, less than one in 500 DI beneficiaries left the disability rolls by returning to work (GAO, 1996a).

A criticism is that work incentives are complicated, and individuals particularly worry about losing medical coverage if they return to work (GAO, 1996b; Mashaw and Reno, 1996).

The belief is that VR plays very little part in encouraging individuals back to work (GAO, 1996b). Individuals receive little encouragement from the rehabilitation system, despite perhaps one-third of the beneficiary population having the potential for rehabilitation. VR services are offered to only a small section, perhaps two per cent, of beneficiaries (Hennessy and Muller, 1995). Attention needs to be paid to identifying and expanding work capacities, and implementing return-to-work mechanisms, for both those with and those without work histories (GAO, 1996a). State agencies rehabilitate, on average, only about one in every 100 beneficiaries each year (GAO, 1996a).

According to Yelin (1997) few people with disabilities enter the labour force in any one year, and efforts to increase their labour force participation should emphasise retention of employment. The current organisation of the Social Security Disability Insurance Programme, however, makes funds available for rehabilitation only after an individual becomes entitled to benefits. For this programme to assist individuals with disabilities to stay in work, individuals need to be able to access these funds rapidly. Disability also combines with other labour market liabilities to determine labour force participation. Therefore, segmenting programmes to improve employability on the basis of gender, race, age, or disability status alone will be ineffectual (Yelin, 1997).

Eight per cent of SSI recipients aged between 18 and 64 years reported earnings; and only one per cent of DI beneficiaries reported earnings over \$500 month (GAO, 1996a). Annual statistics for the early 1990s showed 6,000 of three million DI beneficiaries had returned to work (GAO, 1996a). Very few recipients believe the decision to attempt return to employment is influenced by work incentive provisions (Hennessy and Muller, 1995). After a trial work period, there are disincentives to earn more than \$500 because individuals will lose benefits (Hennessy and Muller, 1995; GAO, 1996a). The GAO supports the belief that there is a particular fear of losing medical insurance. The overlap of entitlements with other federal and state assistance - food stamps, housing and energy assistance - may also be a disincentive.

Self-employment

The increasing rate of new business starts presents another set of employment opportunities for disabled persons, particularly home working (Greenwood, 1990). Although federal incentives for enterprise development have been cut since the early 1980s, from 1980 there was growth of business assistance programs at the state and local level (Nathanson, 1990). Rehabilitation counsellors have the capability to assist and provide start-up money for self-employment.

The US Small Business Administration (SBA) provides loans to individuals starting their own business and a Handicapped Assistance Loan can supply essential ‘seed money’ for a new business. There are two dimensions to this. On the one hand, HAL-1 offers direct loans and loan guarantees to public and private organisations chartered under federal or state law which operate in the interests of disabled persons. A sheltered workshop would qualify under HAL-1. HAL-2 also provides direct loans or loan guarantees to new businesses that are 100 per cent owned and operated by disabled persons. The disability must limit the individuals from engaging in the proposed business activity on an even basis with non-disabled competitors.

A loan made under HAL-1 or HAL-2 is subject to an administrative ceiling of \$150,000 for direct loans, and \$500,000 or 90 per cent of a guaranteed loan. By federal law, the SBA can only make loans to businesses which are unable to obtain financing on reasonable terms from a private lender. The SBA can guarantee up to \$750,000 of a loan made by a private lending institution. Interest rates on direct loans are three per cent per year.

Although vocational rehabilitation programmes can provide finance for small businesses, competitive employment remains their primary emphasis.

Disabled people are twice as likely to be self-employed as the general population; 14.7 per cent compared to eight per cent (Arnold et al., 1995). There is concern, however, that VR advisers cannot keep pace with the demands on their services and increased attention and resources should be given to self-employment opportunities, particularly in rural areas (Arnold et al., 1995; Ravesloot and Seekins, 1996).

PERSUASION POLICIES

The Programme Development Division of the National Institute for Rehabilitation Research (part of the Office of Special Education and Rehabilitation Services) has major responsibility for federally financed campaigns to change attitudes around disability and employment.

The National Institute for Rehabilitation Research has also funded ten Regional Disability and Business Technical Assistance Centers. These organisations provide technical assistance, training and resources on all aspects of the ADA.

The President's Committee on Employment of People with Disabilities Job Accommodation Network (JAN) offers free consultation on job accommodation. JAN also has a data base with over 20,000 specific accommodations listed.

Disability management is an approach that involves early intervention, identifies and provides back-to-work services, and ensures cash and medical benefits are structured to encourage return to work (GAO, 1996b). This approach has been recommended for potential SSA recipients (GAO, 1996b and 1996c).

SHELTERED EMPLOYMENT

The philosophy of sheltered work has come under attack in the last decade. Sheltered workshops are not seen to offer the best integration into the workforce of disabled persons. Before the late 1970s, rehabilitation services to individuals with the most severe disabilities were limited to sheltered workshop and day programme activities which were characterised by a low transition rate to open employment (Benshoff, 1990), and increasing concern about costs (Whitehead, 1987).

Sheltered employment consists of a public or non-profit organization that is certified by the Labor Department to pay sub-minimum wages to persons of diminished earning capacity (under Section 14 (c) Labour Standards Act P.L. 89-601) (Barnow, 1996). Certificates are obtained from the Wages and Hours Division of the Department of Labor's Employment Standards Administration. The employee is paid a commensurate wage, to the prevailing wage for the work adjusted for the productivity of disabled person relative to the typical worker in the area. The wage must adequately reflect the worker's productive capacity and an annual renewal is required. It is estimated that about 7,000 employers have certificates, covering about 200,000 workers employed under the programme. There is, however, a lack of evaluative studies (Barnow, 1996).

The federal Government provides indirect support for sheltered workshops, including federal purchases, exemptions from federal wage laws, and business loans. As with supported employment, some states also choose to use their funding under development disability programs to support sheltered workshops. In 1991 federal agencies purchased selective goods and services from 497 sheltered workshops, totalling \$431.55 million. As noted, the SBA may award assistance loans to sheltered workshops for construction or working capital. For workshops to be eligible, at least 75 per cent of the work hours for direct production must be performed by disabled people.

SUMMARY

Employment is considered central in ensuring that disabled people achieve inclusion, independence and empowerment. It is a belief of American policy that civil rights and free enterprise are not in conflict. The United States has a long history of federal legislation aimed at integrating disabled people into the workforce. Initially this legislation was concentrated upon war veterans but gradually vocational rehabilitation provision developed for civilians. An emphasis on physical disability has shifted to a concern with all types of disability. The General Accounting Office (GAO) identifies 26 employment-focused programmes, and a further 57 related to employment. A central criticism made by the GAO is that the effectiveness of these schemes has been subject to little or no evaluation.

Recent concern has focused on the rising number of recipients of long-term sickness and disability benefits - Social Security Disability Insurance (DI) and Supplementary Security Income (SSI) - and the low number of recipients that return to the labour market. The place of social security benefits in encouraging and facilitating return to work has received particular attention. In the private sector a major change has been the development of the 'disability management' process.

The Americans with Disabilities Act (ADA) defines disability as 'a) a physical or mental impairment that substantially limits one or more of the major life activities of such an individual; b) a record of such an impairment; or c) being regarded as having an impairment'.

The Rehabilitation Services Administration (RSA) is responsible for developing the national policies to assist people to prepare and engage in employment. The RSA functions as a part of the Department of Education. It has responsibilities for the federal-related funding of vocational rehabilitation services and supported employment. States receive funds but can also add to these with their own provision.

Vocational rehabilitation services are the responsibility of the states and the Vocational Rehabilitation Services Program is laid out in Title I of the Rehabilitation Act of 1973. The Act allocates Federal funds on a formula grant basis. The provisions of the services at the state level can be both public and private. The state vocational rehabilitation agency accepts referrals from any source including services to help high school students and graduates. The process of vocational rehabilitation initially involves assessing individuals' aptitudes, abilities and attitudes in order to tailor a plan for the individual. The services that can be provided to meet this plan include vocational training, guidance and referral services, special devices for employment, job placement and follow-up services. The limited effectiveness of VR services has attracted a great deal of attention.

Challenges to the philosophy of sheltered work have encouraged the development of supported employment as an alternative service delivery model. Growth of supported employment was also encouraged by the increased numbers of severely disabled individuals requiring innovative solutions to employment and training. Supported employment is defined as competitive, employer-paid work in integrated work settings in which (sometimes continuous) support is provided for those that require it. Various types of supported employment models are discussed in the literature, including individual placements, enclaves, mobile work

crews and small businesses.

The public-private partnership of Projects with Industry seeks to provide links between business, industry and rehabilitation service agencies. The aim is to create and expand job opportunities for disabled people within the competitive labour market.

The Job Training Partnership Act has attempted to locate employment for disabled persons in private industry. It is targeted at those 'disadvantaged' in the labour market rather than having provisions specifically for disabled persons. The Act can set up training at worksites and reimburse employers for the wages of eligible employees. There is an array of services that can be provided under the terms of this Act.

Various laws concern the obligations to, and rights of, disabled people in the USA. The 1973 Rehabilitation Act dealt with the rights of disabled workers in the federal workforce. Sections of the Act make prohibitions concerning discrimination against otherwise qualified persons in areas of federal agencies themselves (section 501), federal contractors (section 503) and recipients of federal financial assistance (section 504). The Act introduces the terms 'otherwise qualified person with disabilities', 'essential function', 'reasonable accommodation', and 'undue hardship' into the language of employment policy. The Act is enforced by the Equal Employment Opportunity Commission (EEOC), which prepares an annual report to Congress regarding the employment of disabled people within the Federal government.

The ADA (1990) builds on the provisions of the 1973 Act. While the latter extended to disabled persons only in connection to federal contracts, the ADA extends to the private sector the illegality of employment discrimination against disabled persons. While the substantive framework follows the 1973 Act, the procedural dimension mirrors part VII of the Civil Rights Act 1964.

The ADA covers employers, employment agencies, labour organizations and joint labour-management committees. The law applies to all employers who employ 15 or more people. Under its terms, employers must make 'reasonable accommodation', which will depend upon a case-by-case evaluation of the circumstances of firms. Candidates must be able to perform the essential functions of the job.

If an individual feels s/he has been discriminated against on the grounds of impairment, a charge must be laid with a local office of the EEOC. The EEOC aims at informal conciliation, although if this is not successful it can take the matter to court. If the court finds that the employer was engaged in unlawful practices, it can issue an injunction stopping the employer from engaging in the unlawful employment practice. The court can also order the reinstatement of employees, the hiring of employees or any other relief that the court considers appropriate.

The number of cases reported in the first months of the Act suggests the disability community is well informed about its rights. By November 1996, 75,600 complaints had been filed: half related to unfair discharge from a job, 28 per cent to insufficient job accommodation, ten per cent to refusal to hire, and 12 per cent to harassment. Only a small number of the conditions commonly associated with disability (vision, hearing, mobility impairment, epilepsy) are part of the charges filed. Back problems predominate, followed by neurological impairments. The courts are beginning to interpret some of the key terms of the Act including what is defined as 'disability', 'reasonable accommodation', and a 'substantial limitation of major life activity'.

Various taxation measures are used in relation to integrating disabled persons into employment. Tax deductions (section 190 of the Revenue Code) and tax credits (Revenue Reconciliation Act 1990) are available in order to aid employers to adapt premises and to acquire aids and equipment. The provisions differ in their impact on small and large firms.

A number of social security incentives are available aimed at encouraging those in receipt of disability

benefits (SSDI and SSI) into work. Work incentives for SSDI recipients include the Trial Work Period, the extended period of eligibility, continuation of Medicare coverage, Medicare for disabled people who work, continued payment under a vocational rehabilitation programme, and impairment-related work expenses. Work incentives for SSI recipients include the plan for achieving self-support programme; and impairment-related work expenses.

The US Small Business Administration provides loans for individuals starting their own businesses and a Handicapped Assistance Loan can supply essential start-up money for a new business. Schemes also exist to increase awareness of the levels of technology that are available to aid rehabilitation.

Sheltered employment is offered by public and non-profit organizations that gain certificates in order to pay sub-minimum wages to persons of reduced earning capacity. In the last decades the philosophy of sheltered work has come under attack, with criticism of the low transition rates to employment and the lack of integration of the work.

Extensive figures on the numbers of disabled persons are available for the USA. Different definitions of disability, combined with differences in measurement techniques, result in estimates ranging from 3.5 million to 49 million. Disability statistics lag behind many areas of health and social statistics.

Calculating the employment rate of disabled people depends on the survey and the definitions that a particular survey uses. Working-age adults with a disability in the US Census Bureau are defined via the question, 'Does anyone in the household have a health problem or disability which prevents them from working or limits the amount or kind of work they can do'.. According to this definition 14,648,000 have a work disability, of whom 4,250,484 are employed and 10,397,000 are not employed (1991).

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CONCLUSIONS

Policy and provision aimed at social integration of disabled people remain high on the policy agenda for the 1990s and beyond. There are almost universal declarations of commitment to ideals of participation, equality and social integration of disabled people. Common dilemmas facing countries have generated interest in the legislative approaches and policies adopted in different countries and about their effects in meeting social integration aims. This publication, an update of a 1993 study, reflects the continued interest in and demand for information about legislation, policy and provision for disabled people.

In 1993 we recognised that policy does not stand still. The years up to 1997 have seen continued development of policies and approaches and a review such as this can offer only a freeze-frame of a rapidly moving picture. We have depicted legislation, policy statements and descriptions of practice as presented in official documents; where possible we have supplemented these sources with assessments carried out officially or by independent evaluators. Despite this, however, our account remains informed more by the rhetoric of policy than the actuality of practice. The perspective on policy is primarily that of government and we have given less regard to the policies and practices of non-governmental actors.

Here we draw together the themes and issues that emerge from the study of 18 countries' national policies. In

so doing, we follow the order of presentation in the country reports.

Disability policy and legislation

Writing in 1993, we distinguished two broad types of approach to disability and employment policy in the 15 countries we then examined. First, there are those countries with overarching anti-discrimination legislation within which their disability employment policy is located. Employment practices are only one aspect - albeit the most prominent - of a comprehensive policy which recognises rights of disabled people and seeks to eradicate discrimination against them. The USA, Canada and Australia all have such anti-discrimination legislation and human rights legislation, at federal and state level. Most of the countries that have human rights legislation, anti-discrimination legislation or Charters of Freedom also have employment equity law.

In the second broad type of approach reported in 1993, disability policies are compartmentalised and are associated with the policy interests of specific departments of government. Employment policies are detached from other policies. Although a number of countries were reporting attempts to reconcile disparities in policies for disabled people which historically had fallen within the remit of several different departments, we concluded that in most European countries disability policies are characterised by incrementalism rather than by radical change.

In 1993, the countries fell into two broad groups according to their approach to securing employment rights for disabled people. The majority of the European Union (EU) member states had an approach to employment promotion which involves legal requirements guided historically by principles of compulsion and exemplified by quota systems and reserved employment. The countries with direct human rights provision do not have measures of this sort. Rather they have 'enforced' the employment of disabled people through conditions attached to the pursuit of economic activity, such as contract compliance. We commented then that, while in many respects individual European countries differ from each other in the details and emphases of their disability employment policies and provision, when set against the 'new world' countries uniformity is more apparent than diversity.

In 1996, these distinctions are less clear-cut. The piecemeal approach to meeting employment needs certainly continues and in many countries there is a marked proliferation of measures. Voluntary action is being promoted alongside legal obligations, help for disabled people in mainstream employment services is offered alongside a burgeoning range of specialist services, financial incentives - to both employers and employees - are multiplying. Fragmentation of disability policy continues. At the same time, in several European Member States policy for employment of disabled people is now contained within a wider disability policy framework.

Statutory innovations in Europe have supported individual rights for disabled people, symbolically and in practice. Amendments to the constitution and penal codes in Germany, France and Finland introduced rights not to be treated less favourably on grounds of health or disability; and an amendment to the constitution is being drafted in Austria. The UK has introduced a right of non-discrimination in certain areas of social and economic life. In Ireland also, legislative proposals aim to prohibit discrimination against disabled people (and other groups) in specified areas of social and economic life. In Sweden, a Disability Ombudsman supports disabled people's interests. Denmark's Ombudsman has a developing monitoring role, including receiving reports of discrimination from a new Equal Opportunities Centre for Disabled People.

The concept of an obligation to employ disabled people remains a feature in Europe, with a core of member states retaining a strong attachment to quota systems. Compulsion is on the wane, however, and responsibility for meeting this obligation is increasingly located in the economic domain.

Developments in disability employment policies

We have attempted to trace the history of countries' disability employment policies and to identify internal and external influences. For some countries, disability, discrimination and employment have a high profile, while others stand at different points in an evolutionary process of identifying employment opportunities as an area of major policy concern. Accordingly, radical change in one country may seem out-moded to another. We must be cautious about attempting to summarise developments. Writing in general terms about disability employment policies masks the inconsistencies and contradictions within each country's approach.

We may identify a broad shift in the underlying rationale for disability employment policies. Policies for employment and vocational rehabilitation of disabled people arose in the majority of our study countries out of the need to provide for veterans and war injuries. Now they encompass civilians and all types of disabilities, rather than physical disabilities alone. There has been a shift away from the compensatory principles attached to provision for war casualties towards the concept of the 'right to work'. Participation within the labour market has become the focus of campaigns by disabled people for participation and rights within wider society. As one strategy, disabled people seek to gain control of the 'means of production', in a society where worth and prestige are in large part cashed in terms of relationships within the paid labour force.

Disabled people's movements, by challenging discrimination and promoting individual rights, have politicised disability issues across all countries. There is evidence of radical reconceptualisation of disability, most strikingly in Ireland where the Commission on the Status of People with Disabilities in its 1996 report to government stresses rights, equality and the social model and rejects charity, paternalism and the medical model.

There has long been recognition of the need for special measures to ensure that disabled people have remunerated employment, but only recently have there been attempts to implement policies to address the unequal opportunities in the workplace or in access to work. This particular approach to policy appears to be the dominant trend across study countries.

The rhetoric of most governments in relation to disability and employment has moved away from paternalistic state intervention to a policy that encourages independence and responsibility. The shift from collective to individual responsibility has been particularly marked in the UK (Thornton and Lunt, 1995). The rhetoric of increasing independence may mask other objectives, such as the concern to control welfare expenditure, at the same time as it seeks to promote opportunity by making the individual competitive. An associated change, observable in some EU member states, has been an attempt to shift the obligation for employment of disabled people into the economic domain as distinct from the state's, and to develop partnership with employers, employees and organisations of disabled people.

These developments are reflected in strategic approaches which promote employment of disabled people through new and more flexible ways of encouraging and enabling employers to accept and carry out their responsibilities. A recent policy development, fuelled by concern over the costs of long-term disability benefits, has been to encourage newly disabled workers back into the labour market through early intervention on the part of social insurance agencies and employers. The Netherlands has introduced measures to encourage employers to reduce their sickness and disability insurance costs through prevention of disability and retention of workers who are, or become, disabled.

A striking trend has been the incorporation of disabled people within mainstream labour market measures. The impact of high or rising unemployment on disabled people's opportunities for work have led to their inclusion as a priority group in active labour market measures. Rising numbers of recipients of disability benefits, and the associated costs, have increased policy interest in alternatives to welfare dependency, and

active labour market measures are replacing reliance on passive measures. Indeed, exclusion from work is increasingly conceived as a matter for economic policy, rather than for welfare, policy.

In the harsh economic climate of 1990s, disabled people have not merely been recognised as a disadvantaged group requiring special measures; in some countries they are given priority. Sweden, for example, aims for a larger percentage of disabled or disadvantaged people in its labour market schemes than in the total workforce. Within 'job creation' measures for 'disadvantaged groups in the labour market' the proportion of participants who are disabled is significant, notably in Finland and in France. Many job creation measures are temporary solutions to contain the problem of high unemployment. The employment they offer is usually standardised and at a low level. Their longer-term effects on increasing the quantity and quality of employment of disabled people remain unknown.

At the same time, there is increased recognition of the individuality of disabled people's employment needs. Economic restructuring and increasingly flexible labour markets have contributed to the exclusion from the workforce of disabled people and have drawn attention to the mismatch between labour market requirements and skills and aptitudes. The rise of de-institutionalisation and the demands of disabled people and their organisations have been important influences. Groups formerly not thought of in terms of employment provision, or provided for in separate spheres, have been seen as clients for employment-integrating measures. These include severely disabled people, people with learning disabilities and those with psychiatric impairments. The rise of individualism, coupled with the growing diversity of the population of disabled people seeking employment opportunities, has meant that disabled people are less likely to be perceived as one homogeneous group. Strategies are increasingly tailored to opportunities for people with particular requirements and 'blanket' policy approaches are less dominant.

Responsibilities for policy and services

The location of institutional responsibility for disability employment policy can reflect historical factors as well as current policy priorities; in the USA, main responsibility lies with a sub-department of Education, while in Sweden it rests with the Labour authority. In many countries there is no single responsible department, with a common division between those departments providing for the special needs of more severely disabled people and those providing mainstream services. Co-ordination across departments is not always apparent, although countries including Canada, Ireland and Spain have recognised the importance of a cross-sectoral policy.

Public responsibility for employment support services has shifted overall towards mainstream labour market authorities, but there is still significant variation between countries. Three main types of institutional arrangement can be observed.

Labour market authorities (now commonly semi-autonomous bodies) have overall responsibility and either directly provide or arrange specialist help for those whose needs cannot be met in the mainstream. Access to specialist services may be discretionary or dependent on formal recognition as a disabled person.

Specialist employment support services for recognised disabled people and mainstream employment services operate separately under different authorities, with some local co-ordination.

The prime responsibility lies with a specialist body for disabled people. This model is now uncommon, and in Ireland transfer to the labour market authority from the National Rehabilitation Board has been recommended.

There has been a trend to devolve the provisions of resources and services and, in the case of Belgium and Spain, to abrogate central responsibility in favour of local autonomy. In a country such as Canada, with strong provincial functions, this has always been the case, but has been accentuated by recent policy developments. This trend poses problems for monitoring and evaluation of the implementation of policy, may interfere with attempts to achieve coherence in policy or provision for disabled people and raises questions of regional equity.

The means by which services are delivered tend to reflect the societal structure of a country, as well as its traditions and stage of economic development. In Ireland, for example, there has been a tradition of non-statutory and voluntary provision by charities and the church. In the USA there is increasing private involvement in the provision of vocational rehabilitation, reflecting more market-orientated influences, as in the UK. It is interesting to note the emergence of disabled people's organisations as service providers, frequently challenging traditional means of service delivery.

Involvement of disabled people's organisations

An important international trend has been for disabled people's organisations to have greater voice and involvement in providing advice on policy implementation and formulation. In recent years, the trend has been towards the participation of people who are themselves disabled. In the UK, for example, a National Disability Council was established in 1995 to advise government on the reduction of discrimination and on aspects of the operation of the new act; over half of its members are disabled or the parent of a disabled person. In Ireland, a national consultative council for the status of disabled people consists entirely of disabled people, their relatives and representatives of organisations.

There is some recent evidence in Europe of the contribution of disabled people and their organisations to policy change. In Germany and in Austria disabled people's movements campaigned for constitutional amendments to extend non-discrimination rights to disabled people. In the UK, disabled people and their organisations were instrumental in introducing legislative proposals to outlaw discrimination in employment and other fields in advance of the government's own proposals. The Irish government is set to act on many of the recommendations of a commission whose members were predominantly disabled people or their relatives. And in Spain, leading national disability organisations have helped shape the new action plan for disabled people.

New developments to include disabled people's interests in employment-related bodies are less evident. Institutional arrangements for their representation in supervisory or management bodies are less often reported. It is difficult to assess the extent of involvement of disabled people in controlling, influencing or delivering services they use.

Definitions of disability

We have attempted to reproduce definitions of disability or disabled people in so far as they relate to employment policies and provision. We cannot comment on the compatibility of employment-related definitions with those applied in other spheres of disability policy or provision.

Looking across the study countries we note that definitions are formulated for different purposes:

- to determine the beneficiaries of over-arching national policies (for example, those to whom the state has an obligation)
- to outline the characteristics of a group with rights under the law (for example,
- the right not to be discriminated against)

- to define the target group for particular policy interventions (for example, those who count towards a quota)
- to determine individual eligibility for specific services or measures (for example, to qualify for sheltered employment).

Reflecting the broad trend towards recognising the limiting effects of impairments, several EU States' definitions for the purposes of employment refer to prospects of obtaining, retaining (and sometimes also advancing in) employment being reduced because of impairment (or illness, or deficiency). In the UK, a new definition of disability (in relation to the right not to be discriminated against in access to goods and services, buying property and in employment) refers to the adverse effect of impairment on ability to carry out normal day-to-day activities. But the UK act also recognises prejudice, by covering those disabled in the past and those with severe disfigurements.

Against the trend, the definition in the proposed Irish legislation, prohibiting discrimination in employment and training, specified loss of functions, malfunction and disease, without regard to their consequences, although past and imputed disability were also covered.

Despite the challenges posed by the new 'social model' of disability to definitions which view disability as an essential feature of the person, only in Sweden is disability legally defined as a relationship between person and environment.

Defining degrees of functional capacity remains integral to some systems, notably in Greece, Germany, Austria and France, where quota systems are central features. Defining degree of occupational disability remains in Luxembourg, Italy and Spain (also with quota systems).

The concept of occupational disability may relate to general ability to work or be linked to capacity for specific jobs, as in the Netherlands. In Sweden, only where a disability entails an impediment to a certain kind of work can reference be made to an occupational disability.

There can be a tension between the non-restrictive definitions of disability and disabled people used in over-arching legislation, where the purpose is to be as inclusive as possible, and definitions used to control access to and ration services. The UK, however, has taken the unusual step of applying the definition of a disabled person to access to its employment services. Sweden and Australia employ broad concepts of 'targeted populations' for service receipt. Their definitions are intrinsically flexible, and are essentially based on individual need rather than on standardised eligibility criteria. Denmark has no operational definitions or eligibility criteria specific to disabled people; the notion of service based on need applies to all.

Labour market authorities tend to use broader, more discretionary definitions for eligibility to their services than specialist authorities with responsibility for provision to disabled people. Parallel systems can operate within a country, however, with specialist services applying measurable eligibility criteria and labour market authorities using more open operational criteria.

Access to sheltered employment still typically depends on assessment of capacity or productivity. This practice generally has been continued in supported placements in open employment for people previously directed to sheltered work. Indeed, the notion of reduced productivity is the mainstay of measures for financial support for employers of disabled workers.

Statistics

The area of disability statistics is fraught with difficulties. This observation is no less true of the use of statistics in relation to disability and employment. In the USA, for example, estimates of the number of

disabled people vary between 3 million and 49 million people, depending on which working definition is chosen.

Information on disabled people in employment is generally limited to participants in quota schemes and sheltered employment or to those receiving special subsidies or work incentives. Obviously, interpretation of such data must take account of legislative definitions and eligibility criteria. As important in understanding the significance of the data, is knowledge of the processes by which individuals access provision; this we are unable to explore within a desk-based study. It is important to bear in mind that figures for service provision should not be taken at face value. For example, if schemes merely operate on the basis of throughput then, clearly, the issues of 'creaming' will arise.

Interpretation of statistics relating to one area of service provision is difficult when there are no other sets of service figures with which they might be compared. Figures for take-up of financial incentives, for example, can pale into insignificance when set against provision for other disadvantaged groups.

Statistics for EU countries (except the UK) were mostly drawn from Eurostat publications and tend to be limited in their scope. We rarely were able to access national data on the disabled population or on numbers in employment outside quota schemes. Data for Australia, Canada, the UK and the USA were provided by country sources. Information from the latter group of countries is characteristically comprehensive and detailed.

Employment support services

With the shift to active labour market measures, labour market authorities have become increasingly important providers of training and placement services, as well as of financial incentives. Labour market authorities commonly give preference to disabled people by waiving eligibility criteria (such as maximum age in training measures for young people), by extending the duration of measures (such as training or financial subsidies) or by giving them priority access (for example, to training grants).

Countries vary in their attachment to specialist or mainstream employment services. In Sweden and Australia for example, specialist services are intended only for people who need special resources in order to find, obtain, and retain employment and for whom mainstream services are not sufficient. Specialist provision is stronger in those countries with traditions of assessment and classification of disability and of registration. That said, countries appear to follow a similar developmental pattern: separate, often institutionally-based, provision is replaced by mainstream provision, which in turn is modified by the introduction of specialist staff.

Alternatives to publicly provided support services are emerging. Private and non-governmental organisations, including disability organisations, now provide counselling, training and placement services, independently or under contract. Innovations include agencies for temporary work; in Spain, for example, ONCE runs its own agency to place disabled people. Local independent agencies may attract the co-operation of employers which public services have been unable to reach. State-run agencies are themselves diversifying; in Germany, for example, specialist integration services have begun to provide tailor-made support to disabled people with particular difficulties finding employment. A pattern emerges of small, localised agencies specialising in services for people with particular impairments, notably for people with learning difficulties.

The proliferation of providers and fragmentation of responsibility for employment support services have highlighted the need for co-ordination on the ground.

Guidance, training and placement are employment services which have proved most difficult to describe adequately within this study. It has not been possible to gain a comprehensive understanding of

on-the-ground provision of services within individual countries. Rather, reliance had to be placed on available policy statements from which it is difficult to extract the more interpersonal dimensions of service activities. (For example, although a statement may note that a person is 'assessed' for training and guidance, more detailed on-the-ground studies would be necessary to determine the actual process of assessment and the nature of the user/ professional relationship.)

There is a move towards making training more responsive to the needs of employers and the market. A mirror development has been to make the providers of the service more competitive, as in Sweden where the training authority has moved from being a grant-receiving body to a revenue-generating one in competition with the other training organisations. In some countries including Australia, UK, and Sweden, we see the emergence of a 'quasi-market' with public, private and non-governmental providers competing to provide training services. On a much wider scale, this development is related to the rise of the contract culture and post-Fordist restructuring.

We note an emerging trend in favour of on-the-job training, in preference to training as a forerunner to placement. As we discuss below, Canada, Australia, USA, and the UK have policies to encourage integrated employment training in the form of various supported employment models.

Concern is expressed in some countries about the level of qualification of staff engaged in delivering training. Some countries (such as the USA) make staff training a separate and identifiable component of their vocational training programme. There is an awareness of the need to retrain staff in line with a changing emphasis of service delivery, for example from sheltered to supported employment.

Supported employment

The study identified a growing emphasis on the philosophy of supported employment in Australia, USA, Canada and the UK. This approach to employment intends to offer competitive employer-paid work and continuous on-the-job support to those who need it in order to maintain employment.

Supported employment was first established and developed in the USA context, where it developed as an alternative service delivery model to traditional rehabilitation programmes which were unable fully to assist severely disabled people to achieve mainstream, integrated employment. Supported employment is akin to 'a national civil rights movement on the part of people with severe disabilities who have been excluded, devalued and disenfranchised on the basis of their lack of vocational competence' (Wehman, 1988, p. 357). In Australia it was promoted as part of a movement away from segregated employment services. In both the USA and Australia, supported employment is built into legislation and public funding programmes.

Supported or assisted employment initiatives are also proliferating across the European Union. In most EU countries it is inaccurate to talk about a supported employment policy; rather there are initiatives, the origins of which are diverse. Some have been promoted by NGOs, some by state-run placement services, while others have emerged out of traditional sheltered employment provision. The European Commission's HORIZON programme has been a stimulus to initiatives on the ground. Certain countries, such as Austria and the UK, have incorporated supported employment within their strategic policies. In other countries local initiatives are emerging without a coherent national framework. There is no single model of supported employment and often different approaches to supported employment operate side-by-side. The need to co-ordinate approaches is beginning to be recognised.

How best to resource supported employment initiatives is a debate across many countries. There are few evaluations of the cost-effectiveness and outcomes of supported employment.

Disability discrimination legislation

Disability discrimination legislation is a comparatively recent development, adopted at the federal or national level in Canada, USA, Australia and the UK. Rooted in the civil rights legislation of the 1960s, such legislation found growing support with organisations of disabled people in the 1970s and 1980s.

A number of countries are developing legislation to combat discrimination in employment. Irish employment equity legislation before parliament in early 1997 proposed statutory powers of investigation and financial penalties for proven discrimination. Sweden has consulted on proposals to counter discrimination against disabled people in working life, and has been watching developments in the UK. Spain has reinforced its law forbidding discrimination in recruitment or in the course of employment on the grounds of reduced capacities.

There is a great deal of activity around the operation of the anti-discrimination acts; for example, in Australia there are currently more enquiries about its act than any other human rights and equal opportunity legislation. In Canada, key challenges facing human rights commissions at the federal and state level have been large caseloads and funding restraints. This serves to slow responses to individual complaints of discrimination which may create disincentives for other individuals to pursue cases. A tendency for cases to be settled privately precludes the setting of legal precedents. The UK Disability Discrimination Act has been criticised for its conciliatory approach which aims to prevent cases being taken to tribunal.

It is problematic to ascertain the extent of the success of anti-discrimination legislation. One difficulty is the tendency for the interpretation of civil and human rights and anti-discrimination law to evolve on the basis of case law. Countries differ, however. Canada, for example, has no equivalent record of Supreme Court decisions interpreting the law in the light of Section 15 of the Canadian Charter of Human Rights.

The Americans with Disabilities Act (ADA) attracts the most widespread attention. In the USA, over half of the 75,600 complaints filed under the Act by November 1996 related to unfair discharge from employment and over a quarter to insufficient job accommodation, with remaining complaints evenly split between refusal to hire and cases of harassment. In relation to impairments, back problems predominate, followed by emotional/psychiatric and neurological impairments. Disputes are emerging between the Equal Employment Opportunities Commission and judicial interpretations of the Act. Firm data does not exist on whether the employment rate of disabled people has increased under the ADA, although there are examples of the media using cases to present the Act as an example of over-regulation.

Accommodation

A central feature of USA disability legislation is the requirement on employers to make reasonable accommodation for the known limitations of disabled individuals, marking a move towards the concept of equality of opportunity. Reasonable accommodation includes not only modifying the physical layout or equipment used, but also restructuring jobs, work schedules and training, and providing aids or personal assistance. Since the 1970s reasonable accommodation has become a key concept in the disability rights movement.

Although much of what is included in the ADA is not within the remit of the Canadian federal government, the act had considerable influence. Canada introduced 'reasonable accommodation' and 'undue hardship' clauses in its Human Rights Act late in 1992. In Canada, reasonable accommodation has also been taken on board by most provinces. The UK Disability Discrimination Act states that employers must make reasonable changes to their premises or employment arrangements if these substantially disadvantage a disabled employee or prospective employees. Proposed Irish legislation does not contain the notion of reasonable

accommodation.

Legislation containing 'reasonable accommodation' is more likely to benefit people with physical, rather than intellectual or psychiatric disabilities. Debates about what constitutes reasonable accommodation are unfolding on the basis of case law.

In the North American model, the legal requirement is to accommodate the known limitations of individual employees. In Europe, legal requirements to adapt the work or workplace have been framed generally, not in relation to specific employees. In Germany, for example, under the Severely Disabled Persons Act every employer is required to install and maintain the workrooms, plant, machines and tools, and arrange the work so that the greatest number of severely disabled people can find permanent employment. The Swedish approach is to minimise the disabling effects of the working environment.

Integration plans

A small number of the study countries either encourage or require employers to prepare and implement equal opportunity or vocational integration strategies. This measure may operate at state or federal level. Perhaps the best known example of measures to ensure affirmative action plans is contract compliance, introduced in the USA by the 1973 Rehabilitation Act. In Canada the Charter of Rights does not preclude affirmative action, and employment equity legislation operates at both federal and provincial levels. In France there is no compulsion, but employers who reach agreed 'accords' with employees' associations for vocational integration plans are exempt from quota requirements. It was not possible within the scope of the study to examine the prevalence of plans at enterprise level.

Quota systems

Discussion of quota schemes can become disproportionate in relation to their role in the gamut of employment policies. It must be emphasised that quota schemes can represent only one part of the coherent disability employment policy.

Many study countries developed attitudes to quota schemes within the context of post-war recovery. In the 1920s two significant influences in Europe were recommendations for the employment of disabled veterans arising from an Inter-Allied Conference of 1920 and from a committee of experts set up under the ILO .. The principle of a legal obligation on employers over a certain size, with fines or levies for those who did not meet it, formed the basis of legislation adopted in Austria, France, Germany and Italy.

Towards the end of World War II the principle of a quota was reinforced by an ILO conference recommendation (Waddington, 1994). The majority of countries with a compulsory employment scheme extended its scope in the post-war years and some, including the UK and the Netherlands, introduced quota legislation for the first time. Other countries, notably USA, Canada, Sweden, Finland and Denmark, elected to invest in vocational training and rehabilitation and to promote employment by non-compulsory means. Of those countries which have relatively recently legislated for the employment of disabled people, Ireland, Belgium, Greece and Spain have introduced quota systems, although it is noteworthy that schemes in Ireland and Belgium have been limited to the public sector. Portugal has decided against a quota scheme. The principle was further reinforced by the European Commission (EC) Recommendation of 1986. At that time, Germany, the Netherlands and France were introducing reforms to their systems.

In the period since the EC recommendation, the ineffective quota system has been repealed in the UK. The Netherlands abandoned the intention to impose mandatory quotas when the voluntary scheme did not achieve the desired effects. Adjustments have been made in Greece and in Luxembourg, and the system is under

revision in Italy, to introduce more manageable and realistic schemes. In Spain action been taken to promote compliance but a reformed scheme is planned. No member state has introduced a quota system afresh.

A mandatory obligation to employ disabled workers is thus a deep-rooted approach in a third of the EU member states, with quota systems in some form in over half of the 15 countries. It should be acknowledged that certain schemes are designed or implemented in a limited way. Where countries have a low proportion of paid employees and few large firms, schemes which apply to firms employing 50 or more staff will have a limited effect. Similarly, restrictive definitions of eligible employees, such as the requirement to register, can limit effectiveness. While it is improbable that quota schemes will be introduced in countries with no history of such provision, interest in the possibilities of quotas persists in countries with residual provision limited to the public sector, such as Belgium and Ireland.

Anti-discrimination legislation does not appear to be considered incompatible with mandatory employment in France, Germany and Spain; and in the UK campaigners sought, unsuccessfully, to retain the quota system alongside the right not to be discriminated against in employment.

Although the principle of setting a target percentage of disabled workers remains, there are observable shifts in both the guiding philosophy and the application of quota systems, leading to new approaches. The shift in employment policies away from compensatory principles and towards facilitating the right to work is apparent in approaches to quota systems. There is a growing acceptance of the rights of disabled people to work, rather than the duty of the country to compensate for injuries obtained through war-service or for the harm caused by society.

The relationship between the state and employers is undergoing change. The rhetoric of obligation is replacing that of compulsion. The new language of obligation reflects a shifting of responsibility away from the state towards the economic domain. Germany set the trend with its quota-levy scheme, based on the principle that all employers should contribute to the economic integration of severely disabled workers.

Countries which have recently legislated for change in compulsory employment policies have introduced within that legislation other mechanisms for promoting integration. In France, while these are presented legally as means of meeting the employment obligation, they prompt action which promotes integration directly (in the case of accords) or indirectly, in the case of contracts with sheltered work or financial contributions to the redistribution fund. In this way, good employment practices are adopted voluntarily.

Flexibility is the most apparent recent development in the operation of quota schemes. Two sorts of flexibility are worth noting: varying requirements on employers, in recognition of varying capacity to employ disabled people; and increasing use of the quota system to meet changing policy objectives.

Flat-rate quotas which apply uniformly to larger employers are becoming less common. In Luxembourg, the quota now varies depending on the size of the employing establishment, starting with employers of at least 25 staff (previously set at 50 or more). Lowering the minimum size of enterprise covered, and variable quotas according to size, are options under consideration by a senate committee in Italy. The Spanish proposal, awaiting full approval, is to reduce the minimum size from 50 to 25 and to raise the quota to four cent by the year 2000. Varying the quota according to size is, in principle, possible under German legislation, as is variation by sector which is possible in Austria also. A sector-related quota was intended in the Netherlands, had a statutory quota been imposed.

Quota schemes necessarily define who may be counted towards the quota. Historically, qualifications have been registration as a disabled person or other official recognition. Relatively broad definitions, such as a degree of impairment beyond a given threshold, confer certain employment rights on members of a group who are generally disadvantaged in finding or retaining employment. But they are, by themselves, blunt instruments for meeting the employment needs of people who face special difficulties.

In some quota schemes, specified groups (typically defined by type or severity of impairment, or by age) may be counted as more than one unit towards the target percentage of disabled employees. Such systems of multiple-counting are long established in Austria and Germany; they acknowledge the difficulties employers face in accommodating certain disabled people, as well as the particular disadvantages these employees experience. This system of 'weighting' has been used as a more flexible policy instrument in France, however, and multiple-counting rules have been revised since the law of 1987 took effect, to encourage employers towards new recruitment and to give further preference to more severely disabled people and to those taken on from sheltered workshops. Thus, the objection that quota schemes discriminate against the most disadvantaged may be rebutted. Multiple-counting may also aim to encourage specified workplace practices, such as on-the-job training or apprenticeships.

Particular policy objectives may be pursued by the definition of beneficiaries of compulsory employment measures. For example, the French law of 1987 extended the range of beneficiaries to include persons entitled to partial invalidity pensions, a group previously not covered by employment promotion measures; and in the Netherlands people receiving disability benefits were the main target group for the voluntary quota. In addition, the designation of beneficiaries may be an incentive to good employment practice: people for whom adaptations have been made at work, or who would need adaptations in order to take up a job, could be counted towards the Dutch quota. One of the long-standing objections to quota schemes in Scandinavia has been the unacceptability of registration as a prerequisite for such schemes. However, alternatives to registration are possible, as those examples show.

Quota schemes which impose penalties, or require employers to pay a levy for the number of disabled employees they should have employed, tend to reinforce and encourage the status of disabled workers. Accounts from France and Germany report pressure to register put on people who become disabled at work, or those who might not previously have considered themselves disabled. The system may offer benefits to existing employees and support job retention. In Germany, however, it is clear that the system does not facilitate new recruitment.

Despite the 'flexibilisation' of quota schemes, the objection remains that most do not address the question of under-employment of disabled workers. Typically, quota schemes are not concerned with distribution of disabled employees throughout the organisation.

The trends discussed here - a recognition of rights rather than duties, a move away from state compulsion, a shifting of obligation from the state to the enterprise, and overt behaviour-changing objectives of new quota systems - blur the objectives of quota systems. Thus we find legal obligations to meet quota schemes which are not then enforced and the apparent contradiction of financial rewards to employers who do meet or exceed the legal quota target.

Quota-levy systems

Austria, France and Germany operate a quota-levy system, with redistributive funds financed by voluntary contributions from employers as an alternative means of meeting the employment obligation. In Spain, an action plan awaiting full governmental approval, proposes a similar optional levy to be paid to a redistribution fund by employers as an alternative to employing the quota of disabled workers. Such a fund was proposed, but not implemented, in the Netherlands. There is considerable interest in quota-levy schemes in Eastern European countries, including countries seeking to join the European Union. Poland already operates a quota-levy scheme.

Quota-levy schemes have two main functions. On the one hand, they aim to make employing disabled people a more attractive option than paying a financial contribution for every place not filled by a disabled worker.

Thus, direct employment is in theory promoted. However, the sum due may be easily afforded and payment may become an automatic action rather than a considered choice, as the levy may be viewed as simply another tax on employers.

On the other hand, the levy is designed as an alternative means of fulfilling an obligation to further the economic integration of disabled people, in recognition of the difficulties some employers may face in taking on disabled workers. Here, the principle is one of redistribution (or 'equalisation' in Germany), from employers who are unable for economic reasons to employ their quota, towards those who are in a position to aid integration. Amounts received by the national levy funds have been redistributed as grants and subsidies to employers and disabled workers and also have been used for educational and training programmes and to support sheltered workshops. In France, employment of disabled people in small firms appears to have increased as a consequence.

However, the two goals can conflict. While levies may facilitate training and jobs, if the overall aim is to integrate and change attitudes, then the policy cannot be judged a success on those terms. There may be a contradiction between twin aims of jobs and rights.

Prevention and retention

Prevention of disability at work and retention of those at risk of losing their jobs because of the onset of disability are emerging policy objectives, promoted by both legislation and voluntary strategies, reflecting once again the shifting of responsibilities to the employers. The degree of policy interest varies considerably across the study countries; in some, retention is not regarded as a policy issue.

Prevention and retention have come to prominence as ways of stemming or reducing the costs of long-term invalidity benefits. The prevention of absence from work through illness or disability is high on the policy agenda in the Netherlands, and in Sweden and Finland encouraging early return to work and facilitating job retention are policy priorities. All three countries have taken legislative action. There is increasing recognition in Canada, the USA and the UK that few recently disabled people leave the disability rolls and return to work. In the USA and the UK, emphasis is placed on increasing individual incentives to work and reducing the disincentive effects of the benefit system rather than on legal requirements on employers.

Legislative approaches to retention may target the individual at risk, for example, by requiring the employer or insurance agencies to intervene and to make or implement a rehabilitation plan for the individual employee. Disability discrimination legislation is, of course, an individualised approach which can facilitate job retention by requiring employers to make reasonable adjustments so that a disabled employee is not at a disadvantage compared with a non-disabled person (as in the UK). There are also global requirements. In the Netherlands, since 1994 employers have been required to map out the risks to the safety, health and well-being of their employees and to adopt measures to eliminate or reduce danger.

There has been increased attention to adjusting the working environment to the needs of disabled workers, both to prevent disability from occurring and to enable job retention. Acknowledgment of disability as a relationship between person and the environment has led to legal obligations both to adapt working conditions to individuals' physical and mental requirements and to minimise potentially disabling working conditions, as in Sweden's long-standing Work Environment Act. A substantial part of the proceeds of a temporary mandatory levy on employers was directed towards enterprise level projects to improve the working environment in Sweden. In Finland, a 1993 amendment to the occupational safety act stipulated that technical aids and special needs of disabled people must be taken into account.

There are also voluntary measures. In Denmark, a government-inspired Commission for Jobs on Special Conditions, consisting of representatives of employers, employees and local government, aims for voluntary

retention of employees whose working capacity is reduced. Voluntary initiatives operating at enterprise level - often under the rubric of 'disability management' - have not been covered in this study.

Persuasion

We are aware of several government-led campaigns to increase awareness of the employment potential of disabled people. Such initiatives complement legislative obligations and financial measures.

In certain countries, persuasion measures are a central plank of policy and are preferred to imposition of legal obligations. Voluntary action is particularly favoured by the UK government, with a long-standing code of good practice, a new code of employment practice in the civil service and campaigns to raise awareness. A relaunched scheme recognises employers who demonstrate a commitment to specified recruitment and employment practices. A similar initiative was launched in Ireland in 1996. In Belgium, the Agence Wallonne and the Brussels Fund have used several media to disseminate information and increase awareness.

The Australian Disability Services Programme has a number of industry-based initiatives directed at the corporate sector to encourage the employment of disabled persons. These have the support of major employers and sometimes involve the placement of disabled people in jobs, and attitudinal and policy changes. In Canada, voluntary employment equity and affirmative action programs have been established in many public and private institutions across the country. The Government of Ontario recently repealed its Employment Equity Act which had set out mandatory employment equity legislation at the province level for public, semi-public and private organisations. It has been replaced with an Equal Opportunity Plan which provides various supports to the voluntary efforts of employers to increase the representation in employment of disabled people and other disadvantaged groups.

There are also instances of national funds (as in France) offering support to the social partners for measures to increase the sensitivity of employers and employees to the needs and circumstances of disabled workers.

There are some examples of collective voluntary action on the part of employers to adopt recruitment and employment practices sensitive to disabled people, in part through governmental encouragement. In the UK, the Employers' Forum on Disability brings together leading employers. Trades Unions, in the UK and Ireland for example, have also produced guidance or codes of practice.

Financial support for employers

Most of the support measures for employers identified in the study are financial, and incentives to employers to recruit and retain disabled workers are increasingly playing a strategic role. Some states have turned for the first time to financial incentives; in the Netherlands, several employer incentives have been introduced to promote integration of disabled workers. The UK stands out by offering almost no financial incentives to employers..

Although financial measures are often referred to as 'incentives' their purpose is not always clear - to compensate employers for lost production or other costs, or to encourage a change in attitudes? Financial measures appear to have three aims: to compensate for reduced productivity or costs associated with employing a disabled person; to provide a reward or bonus for taking on a disabled person; and to cover all or some of the costs of adapting the workplace or working environments to meet the circumstances of disabled workers.

Subsidy for lost productivity is increasingly used as a policy measure in the countries studied. Sometimes a

disabled worker's reduced productivity is assumed. Alternatively, productivity may be assessed and an incentive given on a case-by-case basis depending on the assessed loss. Where a national minimum wage system operates it may fall to the state to meet any shortfall between productivity and the minimum wage. In Germany the rationale for wage-cost subsidy is said to be compensation for extra costs incurred, such as the extra week's paid leave.

Subsidies vary in their operation in that some may be time-limited, others may taper off with time, while others may involve a reassessment after a certain amount of time has passed. Relief of employers' social security contributions for people taken on is also a common measure, in some EU member states amounting to a significant sum.

In addition to measures restricted to disabled people, there is increasing use of labour market measures designed to encourage the employment of hard-to-place groups, such as wage cost subsidies and relief of national insurance contributions. Labour market priorities tend to dictate which groups benefit most. By the mid 1990s, there was a general tendency towards favouring unemployed disabled people. Temporary wage subsidy schemes have been heavily used in countries hit by rising unemployment, including France, Sweden and Finland; in Finland in 1994 almost as many disabled people were directed to subsidised as to open employment. Temporary subsidies may have an important role in giving excluded groups labour market experience, leading to regular employment, but there is also criticism of programmes which do not sustain employment and of the relatively low status, low-paid jobs on offer.

Wage subsidies have helped to support new forms of employment. In Ireland and in Germany, the viability of social enterprises has depended on such support.

Conditions may be attached to employers receiving a subsidy; for example, they may be expected to maintain employment even when the subsidy period has ended. Failure to do so may mean forgoing any future subsidy opportunities or being required to pay the subsidy. There has been some criticism of financial measures which do not have such conditions attached to them.

An employer subsidy may be given in the form of a tax credit rather than an actual cash subsidy. This system works in relation to the Targeted Jobs Tax Credit in the United States and may be related to a traditional reluctance to give direct grants to employers. Spain appears to be the only European country to employ a fiscal incentive.

Some countries have introduced rewards in the form of lump-sum integration grants. These may be job-creation measures aimed at disadvantaged groups in the labour force, often restricted to full-time jobs. Alternatively, or additionally, there may be special provision to reward the recruitment of disabled people. Rewards for exceeding the quota may also be given. Integration bonuses have been added to the range of measures in Portugal, a settling-in allowance has been introduced in Luxembourg, and the Agence Wallonne now offers a flexible adjustment subsidy. In Australia, an employment start-up payment can be paid to employers who take on workers under the Supported Work Scheme. Some new incentives have had an observable impact. In France, an integration bonus financed from the redistribution fund, awarded simultaneously to the employer and to the disabled recruit, has proved popular, especially among small employers.

All countries have grants that may be given to employers to help them make changes to the work environment (that is either architectural or work practice changes). These changes are usually voluntary, but are also found to be compulsory, as is the case with the compliance of the ADA in USA. Certain conditions may be attached to the receipt of these grants; for example, they may only be given for adaptations for registered disabled people. Other provision may merely recognise that money is needed to enable an identified, but non-registered person, to be reasonably accommodated. A subsidy in the form of a tax credit or deduction can be given to enable adaptation rather than via direct cash subsidies. This is the case with the

United States under various tax codes to encourage compliance with the ADA.

Most emphasis has been placed on removing architectural barriers and adjusting workstations, but new types of assistance may also be covered. In Denmark, for example, employers now may be repaid the costs of personal assistance at the workplace, a provision used mainly to assist people who are deaf or blind. Reimbursement of some of the costs of personal assistance has been introduced in the Netherlands. Portugal reimburses employers for short-term costs of personal support for people taking up employment.

Financial subsidies and grants may come from a variety of departments, including labour, education and health, and from national redistribution funds. Countries may apply rules about which disabled employees are entitled to benefit from various financial measures. The proliferation of types of subsidy and grant, emanating from different agencies with differing regulations, poses challenges to countries' information campaigns. Lack of information may combine with budgetary limitations on grants and staff to produce seemingly low levels of award in some countries.

An alternative to offering a range of discreet programmes is exemplified by the UK 'access to work programme', which combined several employer- and employee-targeted schemes into a single flexible programme.

Incentives introduced during the 1990s have tended to target recruitment and the initial period of employment. However, the redistribution fund in France offers grants to facilitate job retention and re-deployment.

Financial support for employees

Grants may be directed to disabled people themselves. The funds in Germany, Austria and Belgium have traditionally offered direct assistance to disabled workers for access to work and the costs of tools and equipment. The French redistribution fund co-funds similar types of assistance. Reimbursement of costs of equipment and educational materials has been introduced in the Netherlands. Recent developments in Ireland include a pilot 'fares to work' scheme and help to the employee with costs of a reader. Grants to disabled people towards technical and motorised aids for access to training and employment were introduced in Portugal in 1994. A common provision across countries is finance and facilities available to adapt motor vehicles.

The study was able to identify some social security system measures that aim to encourage entry into the workforce. These include one-off cash grants for starting work (Australia and France) and also extending medical coverage for those beginning work (United States). Germany has a scheme to enter work gradually with only proportionate loss of benefit and a guarantee against financial loss if unsuccessful. Incentives may be built into benefits for rehabilitation, as in Finland. In Germany the value of rehabilitation benefits has been reduced, however, and the long-standing right to rehabilitation removed.

Although in some countries, such as Finland, France, Sweden and the Netherlands, disabled people combine disability benefit receipt and paid work, the UK is unusual in offering a limited in-work disability benefit as an incentive to take up of work by people with limited earning capacity. In Canada, Targeted Earnings Supplements benefits are provided on a temporary basis to top up low wages. The Australian Supported Wage System is a voluntary programme introduced after studies suggested that some disabled people would benefit from a productivity-based wage system.

Self-employed disabled people may sometimes also be eligible for subsidies and grants. Certain financial support measures are designed specially for disabled people who want to start up in self-employment, but take-up has seldom been high, even in countries with high levels of self-employment.

Sheltered employment

Sheltered provision is a job-creation measure, established in order to create work for certain disabled people who otherwise would not be catered for in the open employment market. Sheltered workshops were often established by voluntary initiatives and only later made subject to state regulation. Legislation for sheltered employment has often been framed separately from, and in parallel to, other employment measures. Only recently has the role of sheltered employment been considered within a comprehensive employment strategy for disabled people.

We have noted the eclipse of sheltered employment in Australia and the USA by more favoured supported employment measures. Despite the growth of interest in supported employment and the promotion of 'mainstreaming', in Europe there is no consensus about the future of sheltered work, which still remains the main alternative to open employment in most Member States. In almost half of the States, the policy has been to enhance sheltered provision with notable expansion in France, Spain and Portugal. It is interesting to note that the EU countries which have only recently legislated for a sheltered employment sector (Spain, Portugal and now Greece) clearly see a need. In a further three countries - all with large sheltered sectors - levels are being maintained, although in the case of the Netherlands there have been concerted efforts to curb growth.

In certain countries, sheltered work appears marginal to disability employment policy. In Denmark, USA and Ireland it continues to be provided primarily as a social service, earnings complement disability benefits, employment rights are limited, and there is little or no growth. The future of sheltered work is under review in Ireland. In Finland, where sheltered work is part of social welfare and health care, provision is low and the number of places is falling at a rate of four percent a year; the role of sheltered workshops is under debate. In Italy, sheltered workshops (as opposed to co-operatives) are not favoured and provision is reported to be not much used; users do not have employment contracts. Most of these countries appear to be looking towards supported employment or other alternatives.

In the UK, as a result of government policy, numbers in sheltered workshops have declined, while supported placements in ordinary firms have expanded to around half of the total in the UK 'supported employment programme'.

Transition to open employment is a nominal goal of most countries' sheltered employment provision but is rarely realised to any degree. In most EU member states, the extra training and social support functions of sheltered workshops serve to increase competence and personal security in the sheltered work setting rather than to equip workers for outside employment. Obstacles to state intervention include the economic strength of the sector and the problem of creating new opportunities in the open employment sector. Performance agreements which specify transition targets can apply, as is the case of SAMHALL in Sweden and Remploy in the UK.

In France, where provision to promote transition is accompanied by planned expansion of the sheltered sector, the recruitment of people leaving sheltered work helps to attain the quota objectives. Steps have been taken in France to forge new links between sheltered workshops and mainstream enterprises. Mechanisms for encouraging transition range from withdrawal of state funding (in Australia) to financial compensations to sheltered employers. Some countries are beginning to facilitate support services to help effect such a move. The action plan in Spain sees a new role for sheltered employment in training and in promoting transition. A new approach in Germany is to employ specialist integration workers to assist the disabled person through the transition.

Debate about the future of separate, special employment provision for disabled people brings into prominence the question of how best to meet the needs of severely disabled people. There is no consensus that transition is a proper objective. The co-operatives in Italy wish to remain self-sufficient and eschew the

concept of transition. The proponents of the CAT in France promote a similar model of social economy.

Sheltered provision has come under criticism in some countries for failing to provide adequate working conditions and employment contracts.

New forms of employment

There is a growing recognition that the alternatives of sheltered employment and open employment offer insufficient choice of employment opportunity for certain groups of disabled people. The gap is being bridged in part by 'sheltered' work opportunities in less segregated environments (such as enclaves and individual out-placements) and by supported employment, but new forms of employment are also sought. The Federal Government of Germany envisages a national pilot 'half-way house' project for people for whom neither sheltered nor open employment is appropriate, notably older people, long-term unemployed and those with low qualifications.

Social enterprises or self-help firms are another option. Best established in Germany, and run by NGOs, they provide normal jobs with regular contracts and wages for disabled people in economic enterprises where non-disabled people are also employed. Most were created for people with psychiatric health problems, a group typically excluded from sheltered and open employment. In Ireland the government has recently launched a pilot initiative which subsidises disabled workers' wages in firms where at least 50 per cent of employees are disabled.

Work co-operatives are best known in Italy, although they exist on a small scale elsewhere in the Union. Recognised and regulated by law in 1991, Italian work integration co-operatives are self-managed organisations operating on principles of solidarity. They notably provide work opportunities for people with psychiatric needs, among other disadvantaged and disabled people.

Concluding remarks

We are in a privileged position in being able to look back over the four years since we first reviewed legislation and services in fifteen countries to observe developments in policies to promote the integration of disabled people into the workforce.

Disability is clearly 'on the agenda' in almost all of the eighteen countries we reviewed in 1996. We observed a huge amount of activity and a willingness to seek out and attempt new ways of reducing unemployment among disabled people. The recession of the early 1990s and the deteriorating labour market situation which highlighted the particularly disadvantaged situation of disabled groups, along with the increasing costs of passive welfare measures, have encouraged new approaches. Foremost among these, and a likely trend for the future, are moves to prevent job loss in the first place. The new policy emphasis on job retention both reflects and reinforces the shift in responsibilities from the state to the employer.

Opportunities increasingly are being extended to severely disabled people who have previously not aspired to, or have been denied, the right to work in mainstream employment. Many of the innovative schemes, such as technology-based provision and supported employment, aim at meeting their needs. Small, localised specialist services for preparation and placement, often tailored to the needs of individuals with particular types of impairments, are springing up. It appears that responses to the employment needs of people with learning disabilities are more developed than for those with psychiatric disorders and illness, however.

There appears to be a growing divergence between those policies aimed at keeping people in work or returning them to the labour market and those aimed at getting people into work for the first time. Disabled

people who have never worked may emerge as the priority group in the coming years. Consequently, it may be more appropriate to talk of disability policies than a single disability policy, and to acknowledge the equity issues which arise.

Partly in response to the recognition of individual needs, and partly because of the trend towards privatisation and competition in service provision, alternatives to publicly provided services are growing. They provide opportunities for disabled people themselves to enter the market as service providers and so overcome the traditional division between non-disabled providers and disabled 'clients'. On the other hand, lack of co-ordination on the ground and confusion about who provides what are growing problems.

Most countries have increased the range of legislative, voluntary and financial measures and services. We have noted the incorporation of anti-discrimination clauses as one way in which the range has been extended. Another seeming trend, perhaps more apparent because of the inclusion of the UK in the study in 1996, is the use of persuasion to change employers' behaviour, a strategy promoted by employers' organisations themselves, favouring voluntary action over regulation, as well as by some governments. There are interesting differences in rationales: the Danish campaign emphasises the social responsibility of enterprises; the UK stresses the 'business case' for employing disabled people.

Writing in 1993 (with, we admit, a UK-centric stance) we questioned the transferability of policy measures from one country to another, and argued that the appropriateness of a particular measure or broad approach depends on its historical and contemporary place within a country's provision both for employment and for disabled people. In early 1997, it is clear that national policy makers are increasingly searching cross-nationally for 'solutions' to the 'problem' of employment of disabled people, and that disabled people and their allies are drawing on experience elsewhere to promote, and sometimes achieve, radical change nationally. The importation to Europe of a civil rights approach is an obvious example, with the potential to increase the coherence of national policies. Another, more common, consequence is a proliferation of strategies to promote employment opportunities for disabled people, and, in some instances, increased internal contradictions and conflicts in policy approaches.

This study sought to take a broad overview of employment measures for disabled people in 18 countries. We have reported disability policy and services from a policy maker's or a provider's perspective, not a user's. Important variables of gender, race, age, education, work history, type and origins of disability - and their interactions - have been barely addressed. As in 1993, we have hardly touched on the quality of employment obtained or retained, or on advancement within employment. We did not look beyond the confines of the labour market to consider the contribution or barriers to integration in the realms of education, transport, housing, personal care and income maintenance policies. Indeed, one might question the potential for change through vocational integration policies alone.

A descriptive overview can offer no clear answers on the effectiveness of different legislative measures and other devices. A description tells us little about awareness of and attitudes to measures. It is in the nature of policy to be incremental, even piecemeal. It is accordingly not surprising that there is no single coherent disability employment policy in any of our study countries. Typically, the objectives of policy are unclear and we have noted the consequent internal contradictions and tensions. Comprehensive evaluation of policy responses and measures remains limited. Indeed, we are still far from answering the two key questions. What is disability employment policy for? And what would a coherent policy look like?

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