

Industrial Accident Compensation Insurance Application
Guidance for Foreign Workers
<Volume 2>

General outline of Industrial Accident Compensation Insurance
Details of Various Insurance Benefits

Industrial Accident Compensation Insurance Act applies to foreigners who work as employees in Japan regardless of nationality. Not only those who have resident status which allows work but also foreign students who have part time jobs are also covered by Industrial Accident Compensation Insurance when they get injured. This outlines Industrial Accident Compensation Insurance payments and describes contents of the Benefits.

Feel free to contact nearby Labour Standards Inspection Office regarding any further details such as the requirements for payment.

Please note that some kinds of the benefits can no longer be received after the benefit claimant return home country.

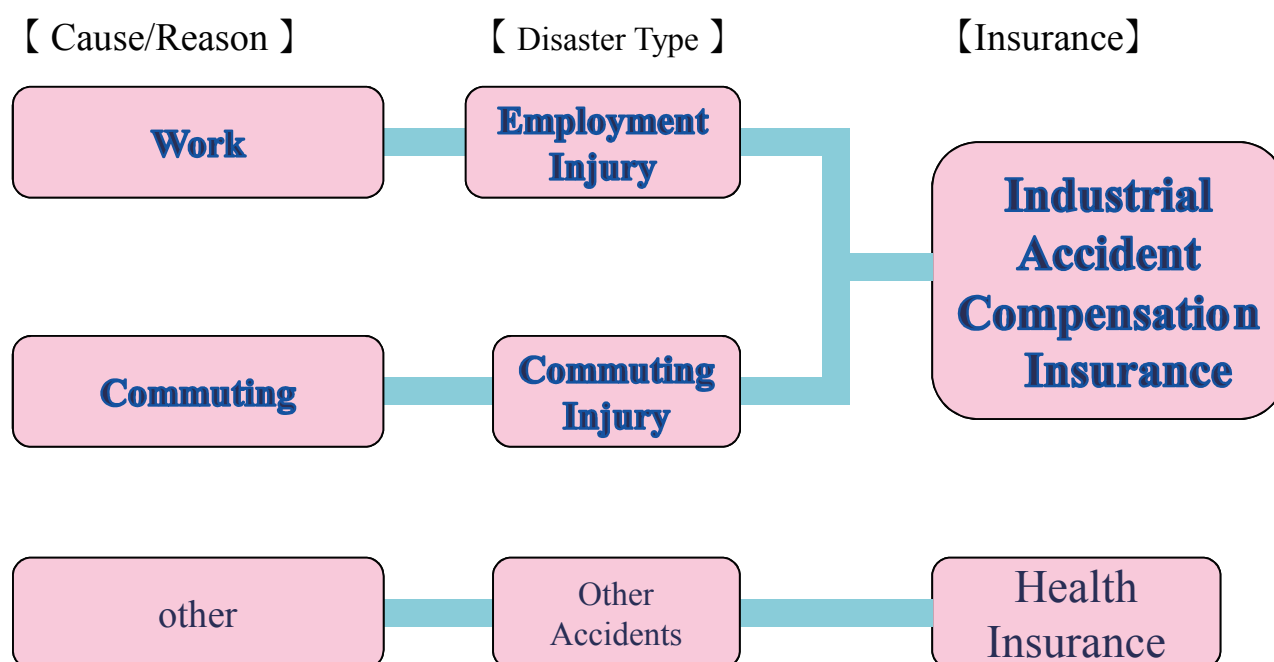
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Industrial Accident Compensation Insurance

This insurance is a system which provides insurance benefits such as medical expenses for workers who get injured, become ill or die due to work or commuting. As long as they work in Japan, non-Japanese are also eligible for Industrial Compensation Insurance.



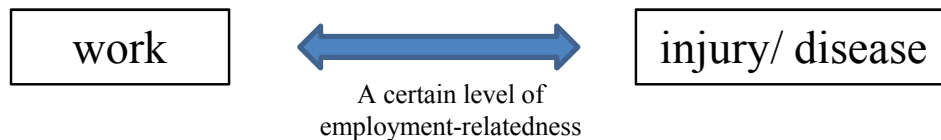
*Health insurance is not applicable for industrial accidents.

Types of Industrial Accident Compensation Insurance Benefits

- ◆ Medical (Compensation) Benefits : a worker who is injured or becomes ill due to work or commuting is eligible to receive this benefits for the medical treatment.
- ◆ Temporary Absence from Work (Compensation) Benefits: a worker who is injured or becomes ill due to work or commuting and unable to work in order to receive treatment is eligible to receive this benefits for compensation of wages.
- ◆ Injury and Disease (Compensation) Pension: In case of not recovering from the injury or disease after 1 year and 6 months from the beginning of treatment and the severity of disability falls in certain physical disability certificate.
- ◆ Disability (Compensation) Benefits: a worker who is injured or becomes ill due to work or commuting and the disabilities remain is eligible to receive this benefits.
- ◆ Surviving Family (Compensation) Benefits : when a worker died due to work or commuting , the bereaved family is eligible to receive this benefits.
- ◆ Funeral Rites Benefits: The benefits cover the deceased worker's funeral expenses.
- ◆ Nursing Care (Compensation) Benefits: The benefits cover the expenses of nursing care for recipients of Disability (Compensation) Pension or Injury and Disease (Compensation) Pension.

Employment Injury

When a worker suffers injury, disease, disability or death resulting from employment-related cause, it is called Employment Injury.



- When injury / disease is employment-related, the term “employment ” is used.
- In principle, trainees and employers who are not workers, cannot receive the compensation.

◇ What is an Employment Injury?

To be approved as an employment injury, following 3 cases are considered.

<1> Working in a building of workplace

If you are on duty in a building of workplace (office or factory) during the regular working hours or overtime hours, the accident is approved as employment injury unless the circumstances are exceptional.

***Following cases are not approved as an employment injury.**

- ① A worker is involved in private activity during working hours and suffers an accident
- ② A worker intentionally causes an accident
- ③ A worker is the victim of violence by a third party caused by personal enmity

<2> Not working in a building of workplace

If you are not at work during the break time or before or after working hours and an accident happens because of your private action, it is not approved as an employment injury.

However, if an accident happens because of the bad maintenance of the building or equipment in the workplace, the accident is an employment injury. In addition, an accident happens during physiological phenomenon, such as using toilet, is considered as an employment injury.

<3> Working outside of the workplace

Business trip or sales activity is approved as an employment injury unless there are exceptional circumstances (for example, the worker pursues to his/her private activity aggressively).

◇ What is an Employment-related Disease?

To be approved as an employment-related disease, following 3 cases are considered in principle.

<1> Existence of adverse factor in the workplace

Harmful physical factor, chemical agent or the strain work with excessive workload is in the duty (e.g. asbestos).

<2> Exposed to adverse factor which could cause health problem

<3> The course of disease and clinical condition are reasonable from the medical perspective

If a worker contact with an adverse factor which exists in the working activity, an industrial disease occurs as in the result of the contact. So the symptoms must appear after the worker was exposed to the adverse factor. The timing of symptoms is different according to the nature of the adverse factor and contact condition.

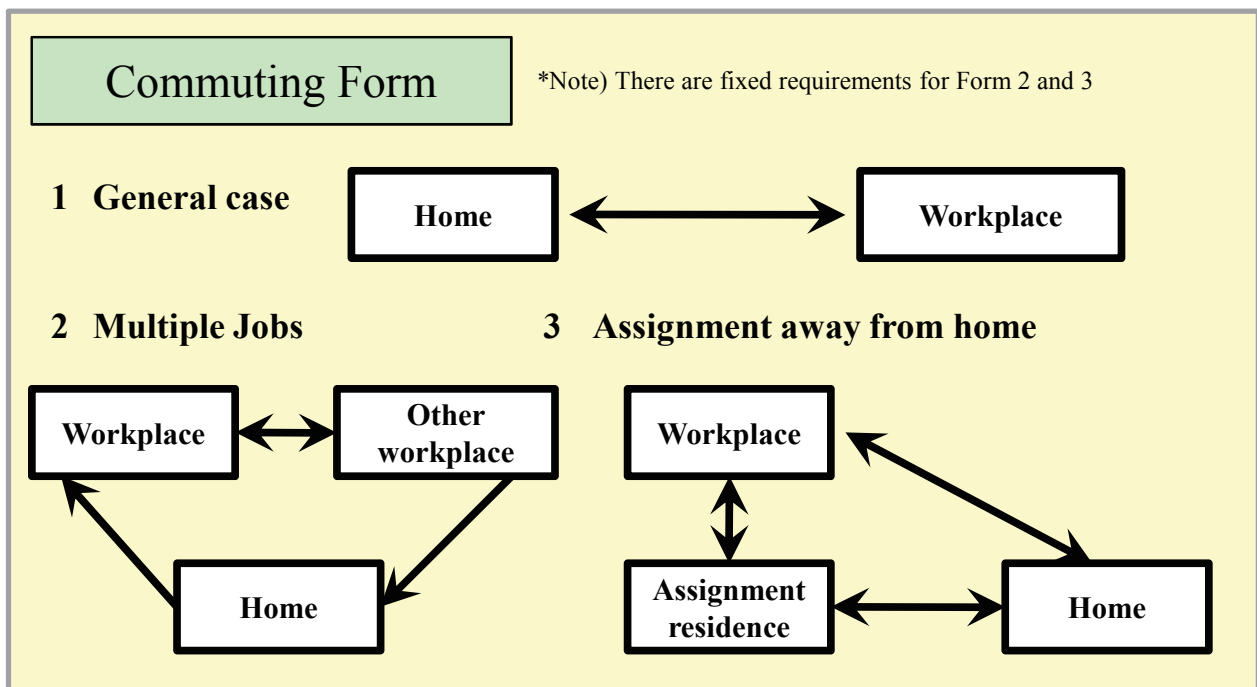
Commuting Injury

When a worker suffers injury, disease, disability or death resulting from commuting, it is called Commuting Injury.

◇What is “commuting”?

“Commuting” refers to the reasonable routes and methods used by workers who travel to or from work noted in ① to ③ below.

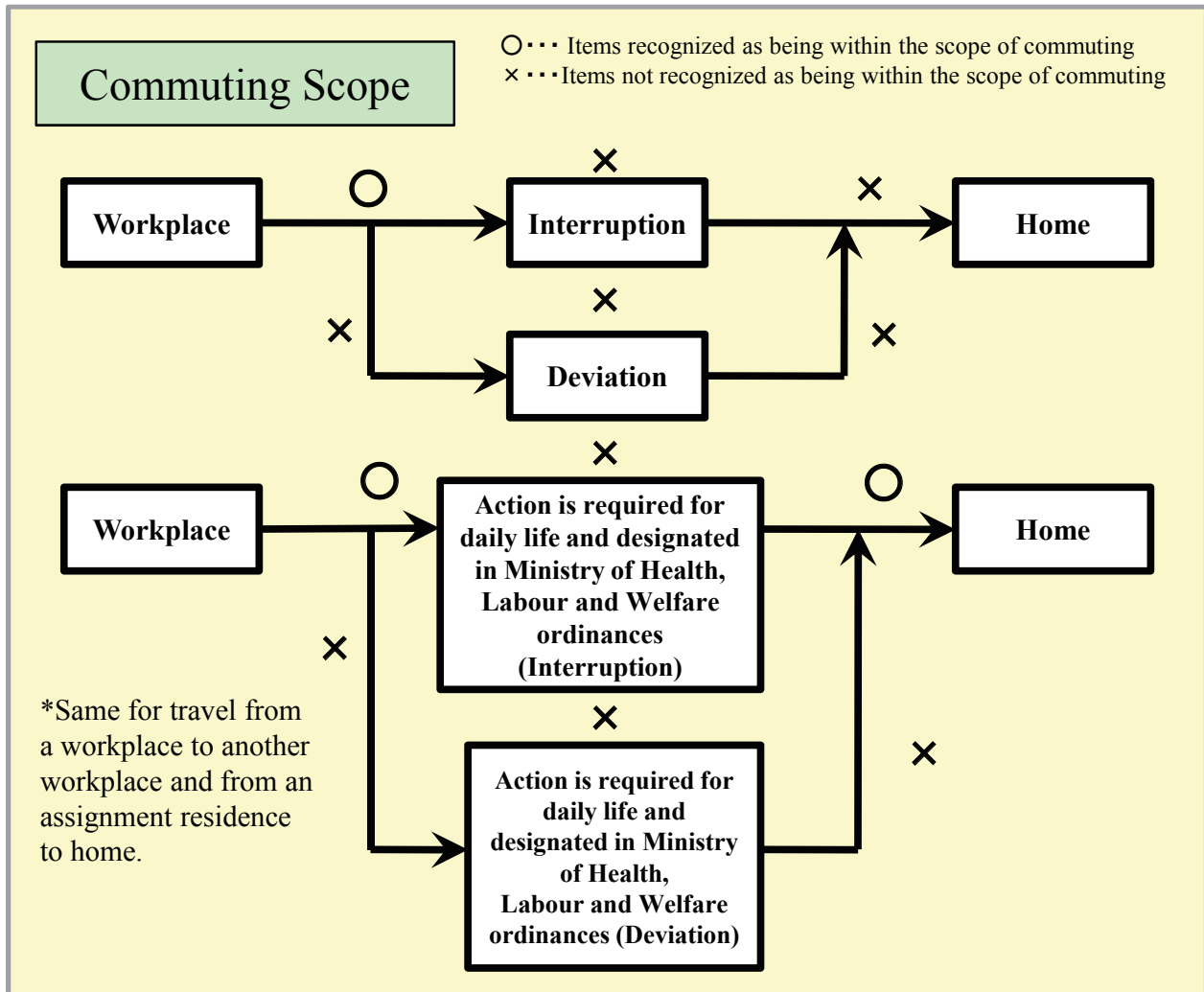
- ① Travel back and forth between a worker’s residence and workplace (the place where workers start and finish work)
- ② Travel between the work place where Ministry of Health, Labour and Welfare ordinance stipulates and another workplace (a worker with multiple jobs)
- ③ For employee transferred without family, travel between the residence in assignment location and the home



◇Commuting Scope

If the worker deviates from the travel route or interrupts travelling, the time during the deviation or interruption, and the travel thereafter is not treated as commuting.

However, in the event the minimum such deviation or interruption is necessary for daily life, for example purchasing everyday items, the travel after returning to the normal route is treated as commuting.



◇ What is the basic daily benefits payment amount?

The basic daily benefits payment amount, in principle, should be an amount equivalent to the average wages specified in Article 12 of the Labour Standards Law.

Average wages, in principle, is the amount calculated by dividing the total amount of wages paid to the worker over the 3 months previous to the day on which the need to calculate the amount arises* by the total number of days (the total number of calendar days including weekends) in the period.

The wages which serve as the basis for calculating average wages refers to payments paid by employer to workers regardless of the names or titles given to those payments. However, marriage allowance, other temporary wages, bonuses and other wages which are paid only one time or paid once in more than 3 months are not calculated for this amount.

* It means the day when the accident resulting in injury or death occurred or the day on which a disease is diagnosed by a doctor. However if a wage calculation cut-off date is specified, the cut-off day in previous month is the day on which the need to calculate the amount arises

○ Exceptions

- ① In the following situations where it is determined that it is not appropriate to calculate the basic daily benefits payment amount from an amount equivalent to average wages, a special calculation method for the basic daily benefits payment amount can be used.

- (a) If any work is missed during the average wages calculation period for receiving treatment of non-work related injury or disease
- (b) If a pneumoconiosis patient is transferred to a non-dust related job
- (c) Other

- ② As for the Temporary Absence from Work Benefits, the minimum or maximum amounts based on the recipient's age bracket can be applied after 1 year and 6 months have passed since the treatment began.

As for the Pension Benefits, the minimum or maximum amounts based on the recipient's age bracket can be applied from the first month the pension is paid.

Basic daily benefits payment amount Calculation Examples

(Example) The worker receives wages of 200,000 yen per month, with end of month when the wage calculation closes. The accident occurs in October.

$200,000 \text{ yen} \times 3 \text{ months} \div 92 \text{ days (July (31 days) + August (31 days) + September (30 days))}$

$\div 6,522 \text{ yen}$

$6,522 \times 80\% \div 5,217 \text{ yen}$

→ 5,217 yen, 80% of the basic daily benefits amount is paid per day of lost work.

→ The above “wages” do not include temporarily paid wages or wages paid once in more than 3 months.

“Wages paid once in more than 3 months such as bonuses” will be reflected when Surviving Family Special Pension Amounts and others are determined.

◇ What is the basic daily calculation amount?

The basic daily calculation amount is, in principle, the amount calculated by dividing the basic annual calculation amount, which consists of the total special payments received by a worker from a employer for 1 year prior to the day, a work or commuting related accident resulting in injury or death occurred, or the day on which an disease is diagnosed by a doctor, by 365.

Special payments refers to bonuses and other wages paid once in more than 3 months which are excluded from calculation of the basic daily benefits payment amount. (Temporary wages, such as marriage allowance, are not included)

If the total special payments exceed 20% of the basic annual benefits amount (the amount equal to 365 times the basic daily benefits payment amount), the amount equivalent to 20% of the basic annual benefits amount will be used as the basic annual calculation amount.

(the limit is 1,500,000 yen)

【Approval condition about each disease ①】

Brain and Heart Disorder

“vascular brain disease” such as brain infarct and “cardiac disease” such as cardiac infarct are formed from vascular pathology due to heredity and a variety of daily lifestyle factors including mainly increased age, diet and living environments, and these gradually develop and worsen until suddenly manifesting. However, on occasion vascular pathology and other effects can worsen as result of excessive work, leading to development of brain and heart disorders.

In the approval standards, if the onset of brain and heart disorders can be *clearly proven to be a result of excessive workload, they can be eligible for Industrial Accident Compensation.

* Excessive workload means the workload which is objectively admitted by the medical experimental rule that it could significantly worsen vascular disease, which is the cause of brain and heart disease, than the natural course of disease.

<Subject disease>

○ Vascular brain disease

- Intracerebral bleeding (Cerebral bleed)
- Subarachnoid bleeding
- Stroke
- Hypertensive encephalopathy

○ Ischemic cardiac disease etc.

- Cardiac infarct
- Angina
- Heart arrest (including sudden cardiac death)
- Dissecting aortic aneurysm

[Requirements for Industrial accident approval]

In the event of any of the following cases, it is approved as an industrial accident

1. Abnormal incidents

Encountering abnormal incidents from 1 day before up to immediately before the onset of symptoms.

This requirement is considered, for example, when the worker is directly involved in work related serious fatal accident and the worker suffers significant mental load or significant physical load because the worker was involved in rescue effort or deal with accident

2. Excessive workload in a short period

Engaging in excessive amounts of work during a period close to the onset of symptoms.

(1) The duty from 1 day before up to immediately before the onset of symptoms is especially excessive. (2) Even if the duty from 1 day before up to immediately before the onset of symptoms is not approved as especially excessive duty, the disease is considered to be related with the symptoms If excessive workload continues within about 1 week before the onset of symptoms

3. Excessive workload over a long period

Engaging in particularly excessive amounts of work leading to accumulated fatigue for a long time before onset of symptoms.

In the case of more than 45 overtime hours per month, the symptoms are more associated with work.

(a) If over 100 hours of overtime work for 1 month before the onset of symptoms can be confirmed,

(b) If over 80 hours of overtime work per month for 2 to 6 months before the onset of symptoms can be confirmed, the symptoms will be considered to be closely associated with work.

* In the case of excessive workload in a short period and a long period, working conditions (irregular working hours, long hours on duty, many business trips, shift system and midnight shift), work environment (temperature, undesired sound and time lag) and mental stress as well as working hours are also supposed to be examined.

【 Approval condition about each disease ② 】

Mental Disorder

It is considered that mental disorder develops in the balance between the psychological burden from the outside (stress) and response capabilities which can deal with the psychological load.

When strong psychological load* comes from the work and mental disorder develops, it will be covered by Industrial Accident Compensation.

* psychological load is objectively considered that it potentially causes the subjected disease

[Requirements for Industrial accident approval]

Industrial Accident compensation is approved when the following requirements are all filled.

1. Mental disorder covered by the approval standard develops

Mental disorders which are classified in Chapter V of the 10th revised version of International Statistical Classification of Diseases and Related Health Problems (ICD-10) “Mental and behavioral disorders”.
(Cognitive impairment and disorder resulting from head injury are not included)
(e.g. depression, acute stress reaction)

2. Serious physiological burden caused by the duty during about 6 months before the onset of mental disorder is confirmed

(e.g.) severe harassment, bullying, violence and incidents which could generate the change of contents of work or workload

* In the case of some repeated actions, like bullying or sexual harassment, if it started more than 6 months prior to the development of the disorder and continued until the development, the psychological burden is evaluated from the actions started.

3. The mental disorder is not resulting from psychological burden outside work or individual factors

Private events (divorce, living away from the spouse) or events related to the family (death of spouse, child, parent, or sibling) are carefully judged if they are the cause of disease.

Presence and the contents of individual factors, such as history of mental disorder and alcoholism, are examined and if they exist, they are carefully judged if they are the cause of disease.

【 Approval condition about each disease ③ 】

Disorder of Upper Limbs

Excess use of arms and hands could cause inflammation of neck, shoulder, arm, hand or finger or abnormality of joint or sinew.

Disorder of upper limbs means such inflammation and abnormality.

<typical diagnostic names>

- Lateral epicondylitis (medial epicondylitis)
- Cubital tunnel syndrome
- Supinator (pronator teres) syndrome
- Arthritis of the hand
- Tendon sheath inflammation
- Carpal canal syndrome
- Cheirospasm

[Requirements for Industrial Accident approval]

Industrial Accident Compensation is approved when the following requirements are all filled.

1. The symptoms develop after the engaging the work which put burden on upper limbs* for long period (more than 6 months in principle)

The following tasks fall into the category

- ① Task with frequent repeating motion of upper limbs
- ② Task which is conducted with upper limbs upward
- ③ Task which has the less movement of neck and shoulder and the posture is restricted
- ④ Task which puts burden on particular body parts on upper limbs

* upper limbs means back of the head, neck, scapular arch, upper arm, lower arm, hand, and finger.

2. Being involved in a heavy task before the onset of symptoms

In the case that a worker was involved in the task which put burden on upper limbs for 3 months before the onset of symptoms in the following circumstances.

• In the case workload is almost stable

The worker was involved in the task which had workload by 10% or more for about 3 months compared with the similar task in which the same-sex and similar-age worker is involved.

• In the case workload is not stable

- ① There was workload per day by 20 % or more than usual and the worker had such days about 10 days a month and such circumstance continued 3 months (If the total workload a month is not different from the usual workload, it is included)
- ② During about 1/3 working hours a day, the workload was over by 20 % or more than usual, and the worker had such days about 10 days a month and such circumstance continued about 3 months (If the average workload a days is not different from the workload, it is included).

※ When judging if the worker was involved in heavy task, not only the workload but the following conditions are also considered.

- Long time work, continuous work
- Excessive stress
- Heteronomous and high work pace
- Unsuitable work environment
- Excessive weight load, use of power

3. Engaging excessive workload and the course of the onset of symptoms are approved as medically reasonable ones

【 Approval condition about each disease ④ 】

Backache

There are 2 types of backache which Industrial Accident Compensation covers and medical treatment is necessary. Approval requirement is set for each type.

[Requirements for Industrial Accident approval]

1. Backache resulting from accident

Backache caused by injury and fills the both requirement of ① and ②

- ① Back injury, or sudden power caused the injury was generated by a sudden accident during working.
- ② It is medically approved that the power worked on the back caused the backache or significantly worsened the previous symptoms of backache or underlying medical problem.

2. Backache not resulting from accident

The worker who handled heavy load and suffered excessive burden on the back had the backache and it is approved that the work caused the ache judging from the condition and period of the work.

Backache not resulting from accident is divided into 2 types according to the causes.

◇ Backache caused by muscle fatigue

Backache caused by muscle fatigue after being involved in the task in relatively short period (about 3 month or more) is covered by Industrial Accident Compensation.

- Task with handling heavy goods about 20 kg or more handling different in weight heavy goods
- in a half-crouching position repeatedly
- Task required maintaining an awkward position for the back for some hours every day
- Task required limited movement (a worker cannot stand up for a long time and have to keep the same position)
- Task with receiving constant big shaking on the back

◇ Backache caused by deformation of bone

Backache caused by the bone deformation resulting from the involvement in the task handling heavy goods, including following, for a long time (about 10 years or more) is covered by Industrial Accident Compensation.

- Task handling heavy goods of about 30 kg or more for 1/3 working hours or more
- Task handling heavy goods of about 20 kg or more for 1/2 working hours or more

* Backache caused by bone deformation is approved to be covered by Industrial Accident Compensation only when the deformation “obviously exceeds the normal change by aging”