



# NCAC NEWS

*From*  
**National Consumer Affairs Center of Japan**  
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\* For further details regarding each topic introduced below, refer to the following URL which contains the actual text of the reports released (PDF files) (Japanese only) :<http://www.kokusen.go.jp/news/news.html>

—NCAC information for consumer—

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\* Major abbreviated names: ADR: Alternative Dispute Resolution  
NCAC: National Consumer Affairs Center of Japan  
PIO-NET: Practical Living Information Online Network System

Attention:

Publication of NCAC News ends with FY 2015 (Vol. 27, No. 6). Beginning in FY 2016, news and other items will be translated into English as they are released and posted to this website (<http://www.kokusen.go.jp/e-hello/news/index.html>).

## I. Injury/fatal accident

### 1. Be alert to development-related accidents involving children two years old or younger: An analysis of data from the Medical Facilities Network

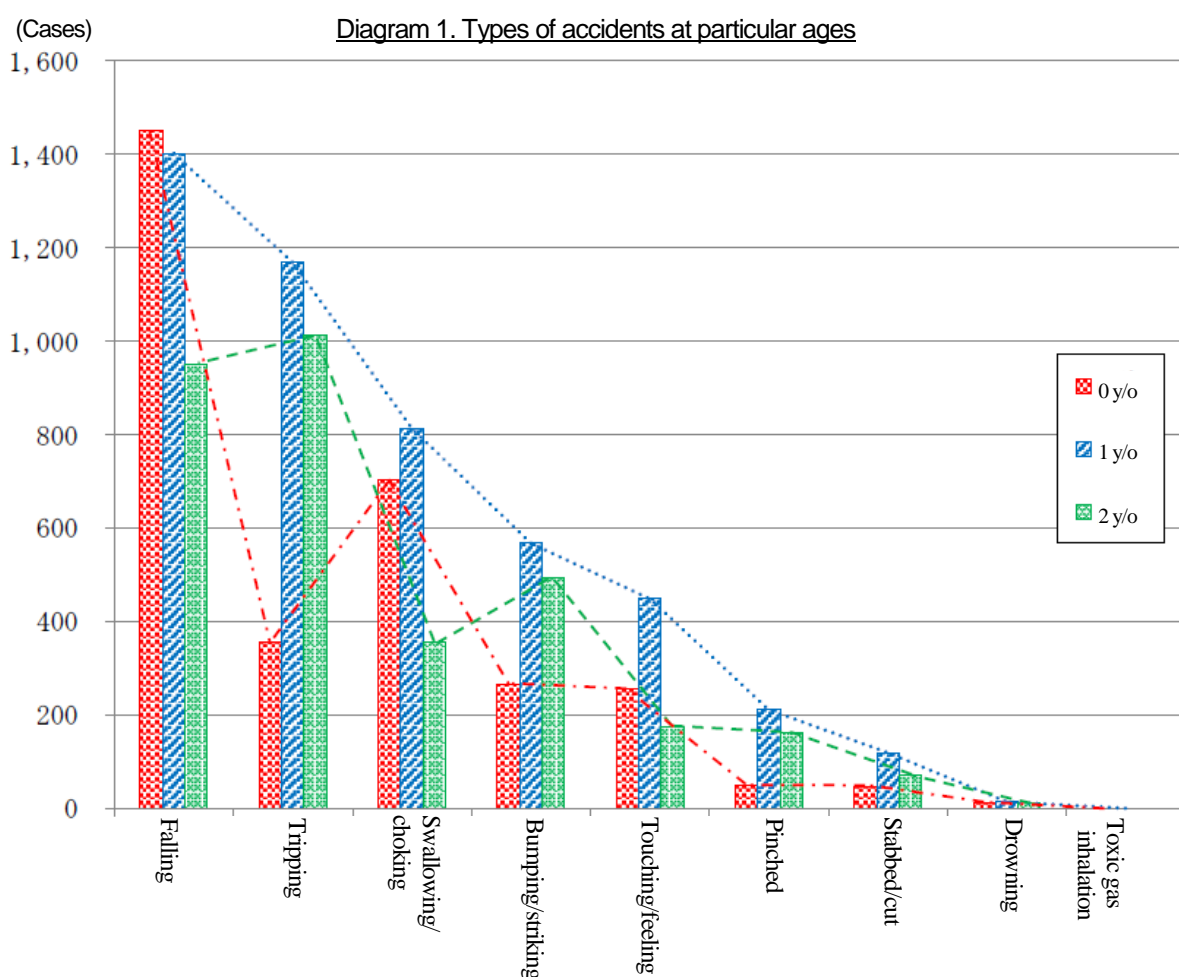
The Medical Facilities Network<sup>1</sup> has received a total of 23,781 reports<sup>2</sup> of accidents involving children 12 years old or younger. Of these, the total number of accidents involving children two years old or younger was 12,484, or roughly 50%.

<sup>1</sup> A joint project between the Consumer Affairs Agency and the National Consumer Affairs Center of Japan launched in December 2010. The network collects the details of accidents from those who received treatment at participating medical institutions after suffering fatal or physical injuries in their daily lives as consumers.

<sup>2</sup> Data received between December 2010 and November 30, 2015.

Accidents involving children vary widely depending upon a child's age and stage of development. At three to four months, infants can hold their heads up. Around four months they begin to play with things they touch by gripping, shaking, and licking them and start to move around by kicking their legs. Six to 11 months after birth they gradually become able to turn over, sit, crawl and pull themselves up. They also become skillful at grabbing things with their fingers and will put anything in their mouths. It can be difficult to keep pace with a child's development, as they develop so quickly during this time that they can suddenly perform things that were impossible for them just one day ago. At one to two years old, children further learn to walk by themselves, extending their range of activity and increasing their chances of having an accident. From age three, when children learn to run and move actively, they also need more than just the careful attention of their guardian, etc. to prevent accidents; they need society to provide suitable environments and teach them about safety.<sup>3</sup>

Based on developmental stages and characteristic behavioral patterns, NCAC has analyzed Medical Facilities Network accident data for children two years old and younger and compiled a list of concerns that guardians, etc. should be alert to in order to prevent accidents.



(data registered from Dec. 2010 through Nov. 30, 2015)

### **Trends and characteristics of reported accidents involving children two years old or younger**

#### ● Incidents by age and extent of injury

One-year-old children had the most accidents, representing more than 40% of all accidents among children two years old or younger.

<sup>3</sup> Source: *Shin kodomo no jiko boshi manual* [New Child Accident Prevention Manual], 3rd edition. Published by SHINDAN TO CHIRYO SHA, Inc.

- **Accident trends**

The most frequent types of accident—"falling," "tripping," and "swallowing/choking"<sup>4</sup>—were development-related.

**Accidents caused by "falling"**

"Falling" accidents were the most numerous. Falling from "beds" was at the top for children under one year old, while falling from "stairs" was at the top for one and two-year-old children.

**Case 1:**

The child was put to sleep in an adult bed and left alone in the room. Upon reentering the room, the child was found wedged between the bed and the wall after falling into the gap between them. Her breathing had stopped.  
(five months, girl, severe injury)

**Case 2:**

The child fell down 13 steps, hitting the front of her head. A baby gate was installed on the stairs but came loose as the child shook it.  
(one year and seven months, girl, light injury)

**Accidents caused by "tripping"**

Accidents involving "desks/tables" were high for all children two years old or younger. Those involving "bicycles" increased from age one.

**Case 3:**

The child was using the edge of a couch to walk when she tripped and fell, striking the left side of her head against the metal pipe leg of a table. She developed a soft lump on the left side of her head but was not seen by a doctor. When she started having spasms the following evening, she was taken to see a doctor and hospitalized with an epidural hematoma.

(eleven months, girl, moderate injury)

**Case 4:**

The child was placed in the forward seat on a bicycle (without her helmet strap closed). As her older brother was being led to the bicycle to be placed in the rear seat, the bicycle fell over on its left side and the girl hit the top of her head on the metal fence next to her, resulting in one centimeter of swelling and fractures in both of her left forearms.

(two years and six months, girl, moderate injury)

**Accidents caused by "swallowing/choking"**

Tobacco was high for children one year old or younger, while medicines were high for two-year-old children. Button batteries were high for all ages.

**Case 5:**

The child had put a whole cigarette in her mouth and half of it was gotten out. Bits of the cigarette later came out in her vomit as she threw up. Her complexion was poor and she needed hospitalization.

(eight months, girl, moderate injury)

**Case 6:**

The child was playing with the TV remote. It was later noticed that the remote's button battery was missing. The button battery, which lodged in the first section of the esophagus, required three hours of surgery to remove.

(one year and five months, boy, moderate injury)

**Case 7:**

The child swallowed three of her grandfather's medications (for cerebral infarction, for benign prostatic hyperplasia, and for headaches) and was hospitalized to perform gastric lavage.

(two years and nine months, girl, moderate injury)

**Accidents caused by "touching/feeling"**

The vast majority of "touching/feeling" accidents are burns. As a result, injuries tend to be moderate to severe.

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<sup>4</sup> Choking: Food or drink is not properly swallowed and enters the windpipe rather than the esophagus.

### Case 8:

A boy reached out and knocked over an electric hot-water pot on a table (80cm high table), splashing his upper left-side body with hot water. There were no witnesses. His left arm, entire left chest and abdominal area were blistered and teared, with burns over 8-9% of his entire body.

(one year and one month, boy, moderate injury)

### Advice for Consumers

- Keep in mind that child accidents have specific development-related characteristics.
- Be especially alert to accidents that may be life threatening or cause severe injury, such as falling, suffocation after accidental swallowing, drowning, and burns.
- You must use your imagination to prevent accidents. Preventing serious accidents requires using your imagination, as well as taking the following steps.
  - Children do not only fall from adult beds and couches. They can also become trapped between beds and walls. Never leave a child unattended when they are sleeping on an adult bed or couch.
  - Always raise the gate on the baby bed.
  - Never place a child on a surface that is 1.5 times or more the height of the child.
  - Use gates to prevent children from falling down stairs.
  - Prevent children from touching things that might fall over or that they might put in their mouths by placing them at least one meter above the floor. Be sure that any doors and drawers within reach cannot be easily opened.
  - Do not store pet accessories in living areas shared with children.
  - Never leave children unattended in the bath.
  - Do not leave water in the bath while children are still small.
  - Keep children away from things that have the potential to burn them, such as fire, electricity, and hot drinks and food.
- Frequently review accident precautions.
- Contact a specialist if an accident occurs and you are unsure if your child should be seen by a doctor.
- When being seen by a doctor or getting advice by phone, clearly explain the circumstances of the accident.

## 2. Harm caused by at-home electric massagers: Intended to help you feel better, they may make you worse! Elderly persons in particular need to exercise caution

PIO-NET<sup>5</sup> has received 253 inquiries and complaints<sup>6</sup> regarding harm<sup>7</sup> caused by "electric massagers" (e.g. "I got a compression fracture three days after buying a massager at an electronics store," "I experienced internal bleeding in my thighs after using a foot massager," etc.), marking an increasing trend. Although at-home electric massagers are intended to relieve physical fatigue, they can occasionally cause significant accidents.

Accordingly, NCAC decided to study accident trends and consumer usage, etc. of at-home electric massagers<sup>8</sup> in order to prevent further trouble by alerting consumers, calling upon industry representatives, and providing information to relevant organizations.

<sup>5</sup> PIO-NET (Practical Living Information Online-Network System) is a database that collects information on inquiries concerning consumer affairs by linking the National Consumer Affairs Center of Japan with local consumer centers and similar organizations across Japan via an online network.

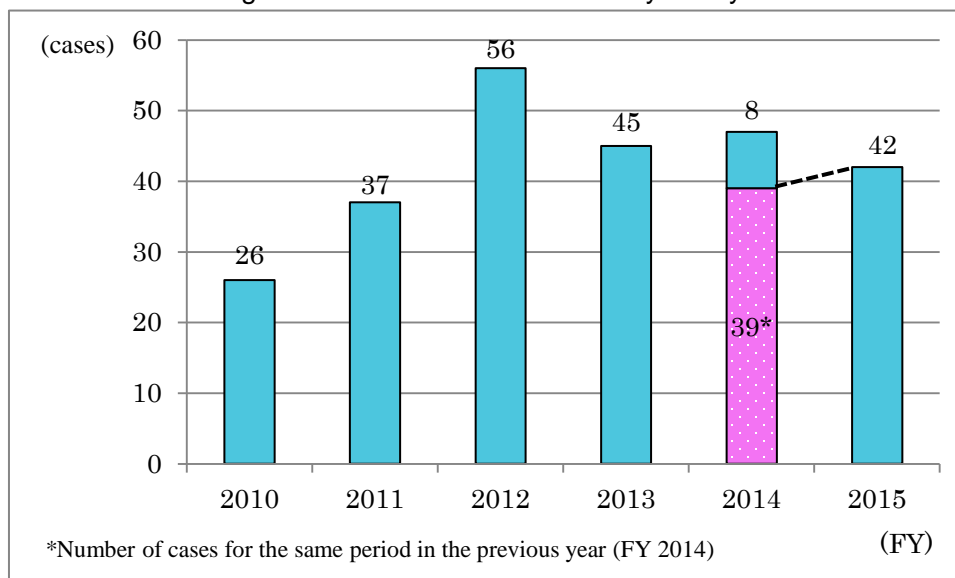
<sup>6</sup> Date received: April 1, 2010 through November 30, 2015. Data registered through December 18, 2015.

<sup>7</sup>"Harm" refers to cases in which a consumer has suffered harm (i.e. bodily injury or illness such as becoming sick) in connection with a product, service, or facility.

<sup>8</sup> The at-home electric massagers examined in this study are electric-powered massagers that are designed for at-home use which use air pressure to deliver pressure and massage features. These include at-home electric massagers and at-home air massagers that have been certified as at-home controlled healthcare devices because they meet the criteria established in the Act on Securing Quality, Efficacy and Safety of Pharmaceuticals, Medical Devices, Regenerative and Cellular Therapy Products, Gene Therapy Products, and Cosmetics.

Such devices typically have internal mechanisms that deliver massage features as well as those that apply pressure using air pressure and rollers. Some devices combine various types of massage mechanisms, rather than consisting of only one particular type of mechanism.

Diagram 2. Number of cases of harm by fiscal year



(data registered: April 1, 2010 through November 30, 2015)

### Details of harm-related inquiries on PIO-NET

- **Attributes of affected persons**

**Sixty percent of affected persons are 60 years or older, and many are women**

Women were more affected. Women were affected in 176 cases (70%), while men were affected in 75 cases (30%). In terms of age, persons 60 years or older were sixty percent (155 cases) of the total.

- **Details on the types of harm**

**Injuries include nerve and spinal damage, as well as fractures**

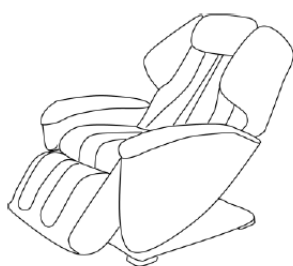
A majority of cases report "aching body" and "headaches and nausea," as well as internal bleeding, bruising, swelling and torn skin in areas where strong pressure was applied. In some cases, however, severe injuries were reported, including "nerve and spinal damage" and "fractures."

- **Harm-related inquiries by device type**

**Most incidents of harm occur when using massage chairs**

Examination of harm-related inquiries by device type (Diagram 3) reveals that massage chairs were most numerous (83 cases), followed by foot massagers (49 cases), bed-type massagers (22 cases), and neck and shoulder massagers (19 cases).

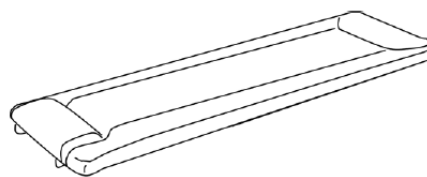
Diagram 3. At-home electric massagers (examples)



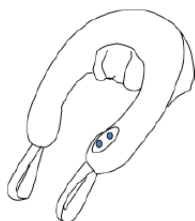
(1) Massage chair



(2) Foot massager



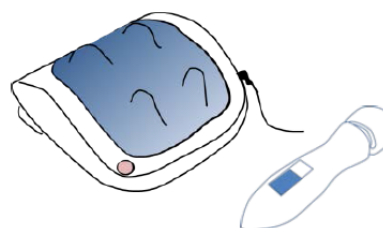
(3) Bed-type massager



(4) Neck and shoulder massager



(5) Air massager



(6) Other  
(portable massagers, etc.)

● **Where accidents happen**

**Accidents have even occurred in stores and at lodging facilities**

There were 191 cases that indicated where the accidents happened. An examination of these reveals that the majority occurred inside people's homes. At the same time, nearly one-fourth (46 cases) occurred on the sales floors of stores with display models and on devices made available at lodging facilities, hot springs facilities, etc.

**Example cases of typical inquiries and complaints**

● **Massage chair**

**Case 1:**

When I tried a massage chair, the arm massage feature caused my arm to swell. (Man in his 70s)

● **Foot massager**

**Case 2:**

I started to sense danger so I hit the stop button but it stopped with the device still squeezing my leg hard. Even now my leg feels numb. (Woman in her 30s)

● **Bed-type massager**

**Case 3:**

I asked the store clerk to stop the machine but he didn't listen. I hurt my backbone and was immediately unable to stand up straight or roll over in bed. (Women in her 60s)

● **Neck and shoulder massager**

**Case 4:**

My elderly mother fractured her shoulder and chest bones during use. (Woman in her 80s)

**Questionnaire survey of retail stores and mail order sellers**

Provide retailers with information on safe use from the manufacturer/distributor

Retailers told us that they received information on safe use from manufacturer/distributors and were instructed to explain the information to consumers who were buying/trying the products. At the same time, some respondents stated that they had not been told about prohibitive health conditions or about how to configure the device to start on a low setting.

### **Explanations to consumers wanting to buy/try the products**

With respect to massage chairs, the majority of retailers responded that they provided explanations and notices about prohibitive health conditions and about how to configure the device to start on a low setting. For other device types, however, there was virtually no explanation provided.

#### **Consumer questionnaire survey**

- Devices are often used without understanding how to use them
- Explanations about prohibitive health conditions were often not received
- Explanations about prohibitive health conditions were often not posted in the store
- Roughly 10% of respondents indicated that using the device had adversely affected their physical condition
- Some respondents indicated that their massage chairs were configured to start on a medium or higher setting

#### **Issues**

- Information on using devices safely is not adequately provided to consumers at the time they buy or try the products
- Consumers do not actively seek the information necessary to use the products appropriately
- Some devices are configured to start on a medium setting, and some devices come to a stop without releasing the pressure on a person.
- Even when a user senses danger, there is not enough time to respond

#### **Advice for Consumers**

- If you have certain health conditions, etc., that prohibit the use of these devices, consult with the seller or your doctor before purchasing or using them
- Accidents have occurred when trying devices in stores or elsewhere, so be sure you understand how to operate them first
- For safety, always start the device on a low setting when using it
- If anything seems unusual with your body, stop the device immediately
- Before using a device, visually inspect it for any visible problems

## **II. Property damage**

### **1. Take action before there are problems! Preparing for wedding ceremony problems: No end to problems related to "cancellation fees" and "inadequate planning"**

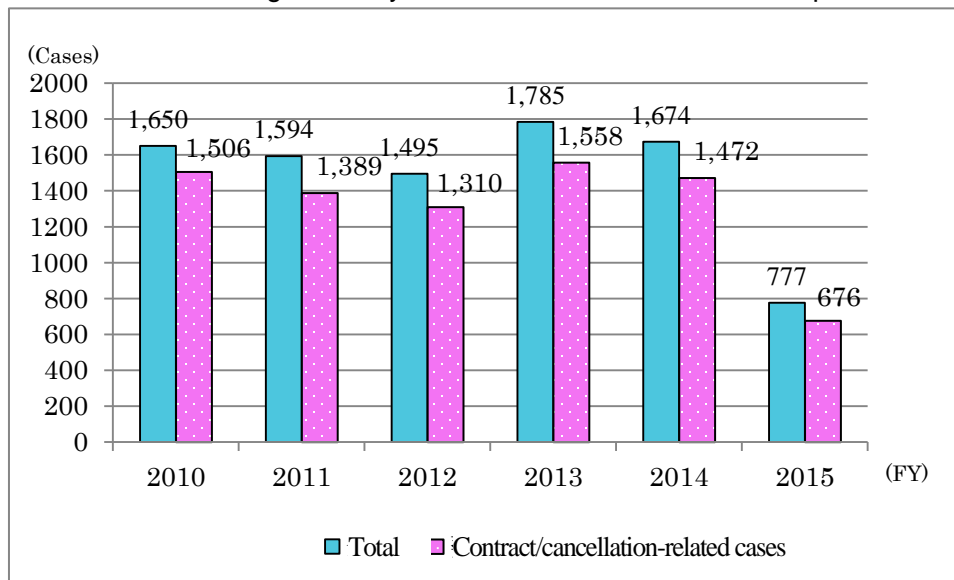
In the past five years, local consumer centers around Japan have received more than 1,000 inquiries and complaints annually regarding consumer problems related to "wedding ceremonies." Last year, the number was more than 1,600.<sup>9</sup> Problems can arise at various stages, including the contract stage (e.g. "our deposit wasn't refunded"), post-contract planning stage, and the day of the wedding ceremony (e.g. "on the day of the ceremony,

<sup>9</sup> Excludes inquiries and complaints received through local consumer centers and other such agencies from FY2015 and later. Data registered through October 16, 2015.

the food was not what we had planned because the coordinator made a mistake"). The vast majority (nearly 90%) of all inquiries and complaints relate to "contracts and cancellations." There have been several cases related to cancellation fees that have gone to court claiming that the business is demanding excessive charges. An examination of court cases in recent years, however, reveals that consumers have a difficult time winning such cases when the problem involves contracts with a cancellation provision that specifies those charges.<sup>10</sup> Therefore, it is important to prevent problems before they occur to avoid canceling in the first place.

To understand the kinds of situations in which problems tend to arise and given the difficulty of reaching a settlement, NCAC will provide information, issue requests to relevant organizations, and publicize the conditions in which specific problems can arise, including the need to carefully review contracts, reach a mutual understanding with the coordinator, etc. prior to signing.

Diagram 4. Number of wedding ceremony and contract/cancellation-related inquiries and complaints



(data registered through October 16, 2015)

### Example cases of inquiries & complaints

- **Cases of aggressive sales and un-refunded deposits**

**Case 1:**

I was given a long sales presentation and signed a contract. I canceled the next day but my "deposit" wasn't refunded. (Woman in her 30s)

- **Problems related to cancellation fees immediately after signing a contract**

**Case 2:**

I received no explanation about when the contract would be in effect or about cancellation fees. (Man in his 30s)

**Case 3:**

I canceled more than a year ago but the cancellation fees were excessive. (Man in his 20s)

<sup>10</sup> In an injunction lawsuit that was filed by a qualified consumer organization ("consumer organization") claiming that the cancellation provision used by a wedding facility violated Article 9, item (i) of the Consumer Contract Act, the Kyoto District Court found that the cancellation provision in said case did not contain invalid amounts based on Article 9, item (i) of the Act because a "normal amount of damages" includes "lost profits" and the cancellation fee in said case was less than the lost profits after gains and losses were offset (Kyoto District Court decision of August 7, 2014). The consumer organization's appeal was dismissed by the Osaka High Court (Osaka High Court decision of January 29, 2015), and its petition for acceptance of final appeal was rejected by the Supreme Court (Supreme Court decision of September 2, 2015).



- **Problem related to estimates after detailed planning discussion**

**Case 4:**

The expenses are ¥1,000,000 over the estimate I was given when I signed the contract. I want to cancel the contract. (Man in his 30s)

- **Cases related to services on the day of the ceremony**

**Case 5:**

We were extremely inconvenienced because they did not provide the agreed-upon services on the day of the wedding ceremony. (Man in his 30s)

**Problems highlighted by the sampling of inquiries and complaints**

1. Contracts are rushed into without full consideration because of statements like "this discount is valid only today."
2. When agreeing to services, consumers receive no explanation about refunds even though the business collects money as a "deposit."
3. There is a lack of adequate explanation about when cancellation fees will be incurred and how much they will be.
4. Differences arise between the initial contract estimate and the estimate after expectations for the wedding ceremony have been decided to some extent.
5. Problems do arise, such as when mutual understanding with the coordinator is difficult to reach and the ceremony turns out different from what was expected.

**Advice for Consumers**

1. Even if you are pressed to enter into a contract, do not sign and pay a deposit on the spot.
2. When making a payment, always verify what you are paying for and whether or not the payment is refundable.
3. Before entering into the contract, always verify when the contract goes into effect and the timing and amount of any cancellation fees.
  - (1) Verify when the contract goes into effect and the timing/amount of any cancellation fees.
  - (2) Verify the breakdown of any cancellation fees.
4. Give the coordinator a clear sense of the ceremony you want as well as your budget and get frequent estimates.
5. Actively seek to reach mutual understanding and strengthen mutual trust with the coordinator.
6. If you encounter problems, contact your local consumer center.

## **2. Overview of consumer inquiries and complaints regarding the Consumer Contract Act and major lawsuit examples, etc.**

Local consumer centers across Japan have received numerous inquiries regarding product and service agreements between businesses and consumers and are engaged in activities at local centers to help consumers get relief for such damages in accordance with laws, etc. In particular, the Consumer Contract Act ("the Act"), which applies to consumer contracts of all kinds and makes it possible for consumers to get relief after they have suffered damages as a result of unfair solicitation or unfair contract provisions by a business, is being used as an effective means of resolving consumer contract-related problems.

NCAC has analyzed consumer inquiries and complaints regarding the Act to summarize illustrations and trends regarding unfair solicitation and unfair contract provisions by businesses. NCAC has also collected and shared information from major lawsuit examples, etc. related to the Act since its enforcement (April 1, 2001).

Here we summarize available information released since November 2013.<sup>11</sup>

<sup>11</sup> "Overview of consumer inquiries and complaints regarding the Consumer Contract Act and major lawsuit examples" (published November 21, 2013)

## **Overview of consumer inquiries and complaints regarding the Act**

We summarized the number of consumer inquiries and complaints regarding the Act (businesses' "Unfair solicitation," in relation to Article 4, and "Unfair contract provisions," in relation to Articles 8-10) for the previous three years with illustrative examples.

- **Unfair solicitation (in relation to Article 4)**

This refers to typical examples of sales tactics, etc. for inquiries under "Sales methods." "False explanations," "Inadequate explanation," and "Side-business schemes" under "Misleading consumer solicitations" include primarily cases in which there were problems with a business's sales pitch. The number of inquiries and complaints for "False explanations" has fallen compared to FY 2013, probably as a result of the decline in the number of cases related to "Deliveries of Unplaced Health Food Orders" that were so numerous in FY 2013 (see NCAC News, Vol. 25, No. 2).

"Concealed purpose of sale," "Free-offer schemes," "Inspection schemes," and "Identity theft" are primarily tactics to lure consumers into a sales pitch by misleading them. The number of inquiries and complaints for "Identity theft" in FY 2014 was roughly twice that of the prior fiscal year. In particular, there was a sudden increase in the number of cases involving phone calls or mailed documents that claimed to be from an official organization such as NCAC.

The number of inquiries and complaints for "Pressure/intimidation" under "Aggressive consumer solicitations" has also grown.

- **Unfair contract provisions (in relation to Articles 8-10)**

This refers to inquiries and complaints related to unfair provisions for inquiries under "Contracting/cancellation."

## **Major lawsuit examples, etc. regarding the Act**

NCAC examined 344 major lawsuit examples, etc. regarding the Act since enforcement of the Act that were available as of September 30, 2015. We presented available information on 40 court decisions, etc. released since November 2013.

An examination of the 40 cases reveals 17 decisions related to "Unfair solicitation (Article 4)," 10 decisions related to "Unfair contract provisions (Articles 8-10)," eight decisions involving "consumer organization appeals" in which qualified consumer organizations filed for injunctions based on the Act, and five decisions to reject a final appeal.

\*For detailed information on the court decisions, please see the press release materials in Japanese.

[http://www.kokusen.go.jp/pdf/n-20151126\\_1.pdf](http://www.kokusen.go.jp/pdf/n-20151126_1.pdf)

## **III. Other**

### **1. Ten major topics for 2015 related to consumer affairs**

In 2015, massive leaks of pension data and launch of the individual identification number ("My Number") system were followed by suspicious phone calls and fraud-related damages tied to opportunists claiming to be with official organizations. It was also revealed that a major corporation had falsified data on piling work for some of its condominiums, undermining consumer confidence.

#### **2015 Ten Major Topics**

- Continued high level of fraudulent sales scams involving persons claiming to belong to an official organization – Targets the elderly
- Massive leak of pension data as a result of an email virus
- "My Number" notification begins – Opportunistic fraud-related damages ensue
- Falsified data for piling work at condominiums discovered – Undermines confidence in major corporations

- The diversification of payment methods and growth of cashless payments – Prepaid card fraud occurs
- Globalization of consumer problems – Systems being put into place
- Recurring large-scale natural disasters – Opportunists exploit the damage and cause problems for consumers
- Child accidents – Efforts to prevent accidents continue to be strengthened
- Changing systems, new systems – Dial 188 for Consumer Hotline
- Consumer-related laws and regulations – Series of revisions