

LegCo Panel on Manpower

Implementation of the Mandatory Provident Fund System Progress report as at the end of December 2004

Purpose

This paper updates Members on the latest progress of implementing the Mandatory Provident Fund (MPF) System.

Enrolment

2. The enrolment position as at the end of December 2004 is as follows:

	Number of Participants*			Enrolment Rate		
	As at 31.12.2004	As at 30.11.2004	Change	As at 31.12.2004	As at 30.11.2004	Change
Employers	223 400	223 300	+ 100	97.9%	97.8%	+ 0.1%
Employees	1 837 200	1 817 400	+ 19 800	96.2%	96.8%	- 0.6%
Self-employed persons (SEPs)	293 900	294 200	- 300	79.6%	79.1%	+ 0.5%

* to the nearest 100

3. The enrolment rate of employers continued to increase. The number of enrolled employees increased by 19 800 but the universe had increased by 31 100, resulting in a net decrease of 0.6% in the employees' enrolment rate. The increase in the enrolment rate of SEP was mainly caused by the decrease in SEPs' universe, by 2 600, as more SEPs might have re-joined the workforce as employees. As at the end of December 2004, 14 400 employers, 294 300 employees and 22 400 SEPs were registered under the Industry Schemes¹.

¹ Double registration of employers and employees under the Industry Schemes is allowed on operational grounds. After discounting double entries, the net number of registered employers and employees under the Industry Schemes is 14 000 and 245 000 respectively.

Complaint Handling

Complaints received by the MPFA

4. In 2004, the Authority received a total of 9 339 complaints, 97% concerned scheme members and involved 4 102 employers. The breakdown is as follows:

<u>Nature of complaints received in 2004</u>	<u>% *</u>
(A) Complaints concerning scheme members:	
➤ Wrongful reduction of wages / benefits	4
➤ Involuntary change from employee to SEP	0
➤ Non-enrolment in MPF Schemes	23
➤ Default contribution	89
➤ Others (e.g. dismissal; no pay records)	5
(B) Complaints against trustees, intermediaries, ORSO etc	4

* *Multiple selection allowed.*

5. Compared to 2003, the number of complaints reduced by 10%. This partly reflects the improved compliance with the MPF legislation by employers, as well as the improved economy and tightening of enforcement by the MPFA.

Complaints received by the Labour Department (LD)

6. In December 2004, the LD received 18 MPF-related complaints, all of which were related to alleged wrongful deduction of wages. Of a total of 257 complaints received over the year of 2004:

- 104 cases were resolved after conciliation or advice given;
- 94 cases were referred to the Labour Tribunal/Minor Employment Claims Adjudication Board for adjudication;

- 27 cases where the employers were insolvent were referred to the Legal Aid Department, the Official Receiver's Office and the Protection of Wages on Insolvency Fund;
- 24 cases where the employees had lodged claims with the LD were awaiting conciliation;
- 6 cases were awaiting the employees' decision on whether to lodge claims with the LD for conciliation; and
- 2 cases were awaiting the employees' decision on whether to lodge claims at the Labour Tribunal/Minor Employment Claims Adjudication Board after conciliation.

Enforcement

7. The MPFA continued to enforce the MPF legislation by conducting proactive inspections of employment premises, investigation of complaints, making civil claims through the Small Claims Tribunal, District Court and the High Court to recover the outstanding default contributions, and prosecuting offending employers. The enforcement actions taken in 2004 are summarized below, with 2003 statistics juxtaposed for comparison:

Enforcement action	Total Number of Cases		Change %
	2004	2003	
A. <u>Prosecution</u>			
Number of summonses applied	1 175	840	+ 40%
- <i>Non-enrolment of employees</i>	32	45	-29%
- <i>Default contribution</i>	1 143	794	+44%
- <i>False statement</i>	0	1	-100%
B. <u>Contribution Surcharge (Note 1)</u>			
Number of Notices issued to employers			
- @ 15% p.a.	1 400	64 300	-98%
- @ 20% p.a.	1 000	71 400	-99%
- @ 5% flat rate	294 800	198 100	+49%
C. <u>Submission to the Small Claims Tribunal</u>			
- Number of cases submitted	1 147	1 171	-2%
- Number of employees involved	2 655	2 737	-3%

Enforcement action	Total Number of Cases		Change %
	2004	2003	
D. <u>Submission to the District Court</u>			
- Number of cases submitted	37	-	n.a.
- Number of employees involved	703	-	n.a.
E. <u>Submission to the High Court</u>			
- Number of cases submitted	2	-	n.a.
- Number of employees involved	246	-	n.a.
F. <u>Submission to liquidators / receivers</u>			
- Number of cases submitted	367	354	+4%
G. <u>Proactive Inspections</u>			
- Number of employment establishments visited	3 422	2 964	+15%

Note 1: Since February 2003, the MPF Schemes Ordinance was amended after which a flat rate of 5% was applied to defaulting employers, instead of the previous rates of 15% p.a. and 20% p.a. for first notices and second notices respectively.

8. Compared with 2003, the number of criminal prosecution summonses issued in 2004 has increased by 40%. In respect of recovery of outstanding default contribution via the civil courts, the number of applications in total was 1,186 cases, which were made on behalf of 3,604 employees, representing increases of 1.3% and 32% respectively.

Education and Publicity

9. During the month under review, two large seminars had been held in conjunction with labour unions in the catering and construction industries to promote the MPF Industry Schemes among workers in these two industries. In addition, an outreach activity was held in Shamshuipo in early December in collaboration with Shamshuipo District Council and labour unions to publicise the Industry Schemes to employers and employees of eating establishments.

10. Youth talks and community outreach activities continued. A total of seven talks had been organised for secondary schools, youth organizations and professional groups during the month.

11. A partnership programme with a political party was kicked off on 12 December 2004 to disseminate MPF messages to the community through a district carnival. Furthermore, the MPFA had taken part in the 39th Hong Kong Products Expo, organized by the Chinese Manufacturers' Association of Hong Kong to promote the MPF System through drama, game booths and quiz.

12. On the media front, more than 20 articles had been published in the newspapers in December, focusing on Industry Schemes, self-employed persons, member protection, and MPF investment.

13. Members are invited to note the contents of this paper.

Mandatory Provident Fund Schemes Authority
5 January 2005