

Holding on in wonder, striving through the thunder



ENROLMENT

With a view to upholding the MPF System's integrity and credibility, the MPFA has maintained its law enforcement actions despite the relatively gloomy state of the economy. Continuous efforts have been made to ensure enrolment in and contributions to MPF schemes to protect the interests of the relevant employees.

The enrolment rates for employers and employees were stable during the year, while that for self-employed persons (SEPs) decreased due to an increase in the SEP universe as reported by the Census and Statistics Department. At the end of March 2003, about 93.8% of the employers, 95.7% of the relevant employees and 75.8% of the SEPs covered by the MPF System have joined MPF schemes.

Together with the employees who were already covered by existing occupational retirement schemes or statutory pension plans, about 84% of the total workforce in Hong Kong was protected by retirement protection schemes at the end of March 2003. The remaining 16% included 11% who were exempt from MPF (people aged below 18, people aged 65 or above, domestic employees and self-employed hawkers, etc), and 5% who should have joined but had not yet joined any MPF scheme. Detailed statistics on enrolment are included in Part A of the Statistics section of this report.

The composition of Hong Kong's workforce has been changing. The number of employees continued to drop while self-employed persons continued to increase. With the very high overall compliance rates achieved within a short time after implementation of the MPF System, the MPFA has already moved into a situation where a small increase in compliance rate can only be achieved by putting in increasingly disproportionate resources. Furthermore, as the economy is still restructuring, the mobility of the workforce remains high and the overall employment pattern has become more volatile. Due to labour turnover and businesses closing down and setting up, inevitably there are always employers and employees pending enrolment at any one time. A 100% enrolment rate is therefore unrealistic. Taking this and the existence of a hard core of non-compliant employers into account, the optimal employer enrolment rate is estimated to be $95\% \pm 1\%$. We aim at sustaining this optimal rate, which we have already attained, in the coming year.

Industry Schemes

The Industry Schemes are set up to protect casual employees of the catering and construction industries which tend to employ more daily-rated employees who may otherwise not benefit from the MPF System, as they may not be employed for more than 60 days.

At the end of March 2003, 13 100 employers have enrolled in the Industry Schemes. A total of 231 400 and 23 000 casual employees and SEPs respectively have also registered with the two approved trustees under the Industry Schemes. Meanwhile, many employees and SEPs in the catering and construction industries have been enrolled and protected under the master trust schemes instead of the Industry Schemes, because many employees are employed on non-casual terms.

ENQUIRIES AND COMPLAINTS HANDLING

The number of enquiries received by the MPFA in 2002-03 was 186 935 as compared with 190 988 in 2001-02, averaging about 600 per working day. The enquiries were mostly about enrolment and contribution arrangements, default contributions and imposition of surcharges. We anticipated a surge in enquiries prior to the implementation of the provisions of the Mandatory Provident Fund Schemes (Amendment) (No. 2) Ordinance 2002 in February 2003. The provisions were mainly related to the adjustment of the minimum relevant income level for MPF contribution and other scheme administration issues. Appropriate contingency measures for the Call Centre were put in place and the increased demand for enquiry services was met effectively.

During the year, a total of 9 661 complaints were received as compared with 8 843 complaints received in 2001-02. Complaints relating to default contributions accounted for the majority of the cases recorded, followed by complaints relating to non-enrolment.

Statistics of enquiries and complaints are in Part D of the Statistics section.

INSPECTION, INVESTIGATION AND PROSECUTION

In 2002-03, the MPFA proactively inspected 3 099 business establishments to check on non-enrolment and default contributions, exceeding the target of 3 000 set at the beginning of the year. These inspections covered construction sites, catering establishments, housing estates where cleaning and security guard contractors operate, commercial/retail outlets, as well as employers who were reported by trustees as frequent defaulters.

Inspections were also conducted reactively to complaints received. The MPFA looked into all complaints received in detail. Technical breaches by employers, committed due to oversight or ignorance, were usually rectified speedily after warnings were served by the MPFA. Where complaints were substantiated, the MPFA would prepare the cases and refer them to the Department of Justice and the Police for prosecution. Out of the 9 661 complaints received during 2002-03, we have completed investigation on 7 087 cases, exceeding the target of 7 000 cases for the year.

Most of the complaints received were related to default in making MPF contributions and the MPFA conducted thorough investigations into such cases. In respect of each of the substantiated cases as well as cases in default contribution reports submitted by trustees, the MPFA imposed a contribution surcharge at 15% per annum in the first instance according to law. A second notice imposing a surcharge at 20% per annum would be issued if the first surcharge were not paid on time. From February 2003 onwards, as a result of the relevant provisions in the Mandatory Provident Fund Schemes (Amendment) (No. 2) Ordinance 2002, the surcharge rate on default contribution is 5% flat of the amount of defaults in arrears. The surcharges received were credited into the employees' MPF accounts. During the year, 260 500 first payment notices and 160 400 second payment notices were issued to 53 100 employers.

Experience has shown that most employees would prefer to pursue the contributions in default through civil means rather than prosecution as they could recover the amount owed to them more effectively. During the year 2002-03, the MPFA has filed 687 claims with the Small Claims Tribunal and made 207 applications to liquidators or receivers in respect of default contribution cases.

In 2002-03, we had applied for 756 summonses. Of these summonses, among the 89 employers (involving 527 summonses) who had taken plea by 31 March 2003, 86 (involving 521 summonses) were found guilty (pleaded guilty or convicted). They were imposed fines of \$300 to \$10,000 per summons or \$2,600 to \$80,000 per case. The total amount of fines imposed was \$1,355,500.

Statistics on enforcement are in Part E of the Statistics section.