

Press Release

LCQ10: Enforcement of the Mandatory Provident Fund Schemes Ordinance

Wednesday, May 28, 2014

Following is a question by the Hon Chan Kin-por and a written reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (May 28):

Question:

The Mandatory Provident Fund Schemes Ordinance (Cap. 485) (MPFSO) has been in force since 2000. The complaints received by the Mandatory Provident Fund Schemes Authority (MPFA) in recent years were mainly related to employers' defaults on contributions to Mandatory Provident Fund (MPF) schemes and failure to enrol their employees in MPF schemes. For example, 283 and 136 of the 372 complaints received in March 2014 were related to such non-compliance situations respectively. In this connection, will the Government inform this Council whether it knows:

(1) the number of cases in which MPFA filed civil claims in court against employers for defaults on MPF contributions and, among such cases, the number and percentage of those in which the contributions in arrears were successfully recovered, in each year since 2009;

(2) the number of cases in which criminal prosecutions were instituted by the authorities against employers for defaults on contributions or failure to enrol their employees in MPF schemes since 2009, broken down by whether the employers concerned were companies or individuals; among such cases, the respective numbers of those in which the employers were prosecuted for more than once and convicted; the highest, lowest and average amounts of fines and/or the longest, shortest and average terms of imprisonment imposed on the employers convicted; and

(3) given that the Government amended MPFSO in 2012 to stipulate that it is a criminal offence for an employer failing to comply with a court order for the payment of arrears of MPF contributions, whether MPFA has examined if the situation of employers defaulting on contributions has improved since the implementation of the legislative amendment; whether it will consider introducing new measures, such as vesting greater power in MPFA and stepping up

prosecution efforts, so as to reduce defaults by employers on contributions; whether it has plans to impose heavier penalties on repeated offences; if so, of the details; if not, the reasons for that?

Reply:

President,

(1) According to the information provided by the MPFA, the particulars of civil claim cases which have been awarded court orders from financial years 2009-10 to 2013-14 are set out in Table 1 of Annex.

(2) According to the information provided by the MPFA, the particulars of criminal prosecution cases relating to MPF default contributions and non-enrolment of employees from financial years 2009-10 to 2013-14 are as set out in Table 2 of Annex.

(3) The Government and the MPFA have been reviewing arrangements in various areas under the MPF System with a view to identifying improvement measures, in the light of experience gained from actual operation and opinions from various stakeholders. Since the implementation of the MPF System, the Legislative Council has enacted eight bills to amend the MPF legislation, five of which include amendments to introduce measures to enhance the deterrence against non-compliant employers.

The recent legislative amendment stipulates the penalty for employers who fail to comply with a civil court order to settle MPF contributions in arrears. Five employers and one company director have been convicted since the implementation of the amendment on November 1, 2012. We believe the new penalty has a deterrent effect against employers' default MPF contributions. The Government and the MPFA will continue to monitor the situation of employers defaulting on MPF contributions and will propose legislative amendments as and when necessary.

Ends