

Dishwashing service company licensee jailed for employing illegal workers

A dishwashing service company licensee pleaded guilty to 16 counts of charges of being an employer of a person who was not lawfully employable at the Shatin Magistrates' Courts yesterday (February 5) and was jailed for 19 months in total.

During November 2021 to June 2023, Immigration Department (ImmD) investigators raided seven restaurants and arrested 24 illegal workers working as dishwashing workers. Follow-up investigations revealed that the illegal workers were employed by the same dishwashing service company, and thus the dishwashing service company licensee was arrested. The licensee is a Hong Kong resident, male, aged 61. He is charged of being an employer of a person who was not lawfully employable as he did not take all practicable steps to ascertain whether the applicant was lawfully employable prior to employment. The licensee was jailed for 19 months by the Shatin Magistrates' Courts yesterday.

The illegal workers, who were employed by the licensee, comprised six men and eighteen women (including 14 Indonesian women, four Chinese women and six Chinese men), aged 26 to 60. Among them, six Indonesian women were holders of a recognisance form, which prohibits them from taking any employment. The illegal workers were jailed by the Fanling and Shatin Magistrates' Courts earlier and were sentenced to imprisonment ranging from two months to 15 months.

The spokesman reiterated that it is a serious offence to employ people who are not lawfully employable. Under the Immigration Ordinance, the maximum penalty for an employer employing a person who is not lawfully employable, i.e. an illegal immigrant, a person who is the subject of a removal order or a deportation order, an overstayer or a person who was refused permission to land, has been significantly increased from a fine of \$350,000 and three years' imprisonment to a fine of \$500,000 and 10 years' imprisonment to reflect the gravity of such offences. The director, manager, secretary, partner, etc, of the company concerned may also bear criminal liability. The High Court has laid down sentencing guidelines that the employer of an illegal worker should be given an immediate custodial sentence.

According to the court sentencing, employers must take all practicable steps to determine whether a person is lawfully employable prior to employment. Apart from inspecting a prospective employee's identity card, the employer has the explicit duty to make enquiries regarding the person and ensure that the answers would not cast any reasonable doubt concerning the lawful employability of the person. The court will not accept failure to do so as a defence in proceedings. It is also an offence if an employer fails to inspect the job seeker's valid travel document if the job seeker does not have a Hong Kong permanent identity card. Offenders are liable upon

conviction to a maximum fine of \$150,000 and to imprisonment for one year. In that connection, the spokesman would like to remind all employers not to defy the law by employing illegal workers. The ImmD will continue to take resolute enforcement action to combat such offences.