

## Five illegal workers jailed

Five illegal workers comprising three Vietnamese, a Gambian and a Bangladeshi were jailed by Shatin Magistrates' Courts on September 7.

During joint operations conducted by the Immigration Department (ImmD) and the Hong Kong Police Force codenamed "Champion" on June 20 and July 16, enforcement officers raided a Mong Kok stall and the airport cargo terminal. A male Gambian illegal worker, aged 31, and a male Bangladeshi illegal worker, aged 41, were arrested. When intercepted, they were both conveying goods. Upon identity checking, they produced for inspection a recognisance forms issued by the ImmD, which prohibit them from taking employment. Further investigation revealed that they were non-refoulement claimants. An employer suspected of employing the illegal worker was arrested and the investigation is ongoing.

In addition, during an anti-illegal worker operation mounted on September 5, ImmD investigators raided a restaurant in Yuen Long. Two male Vietnamese illegal workers and a female Vietnamese illegal worker, aged 28 to 38, were arrested. When intercepted, they were washing dishes. Upon identity checking, they were found to be illegal immigrants. An employer suspected of employing the illegal workers was arrested and the investigation is ongoing.

The five illegal workers were charged at Shatin Magistrates' Courts on September 7 with taking employment after landing in Hong Kong unlawfully and remaining in Hong Kong without the authority of the Director of Immigration or while being a person in respect of whom a removal order or deportation order was in force. After trial, they were sentenced to imprisonment ranging from 15 months to 22 months and 14 days. In addition, three of them were also charged with remaining in Hong Kong without the authority of the Director and were sentenced to 15 months' imprisonment. All sentences are to run concurrently.

The ImmD spokesman warned that, as stipulated in section 38AA of the Immigration Ordinance, illegal immigrants or people who are the subject of a removal order or a deportation order are prohibited from taking any employment, whether paid or unpaid, or establishing or joining in any business. Offenders are liable upon conviction to a maximum fine of \$50,000 and up to three years' imprisonment. The Court of Appeal has issued a guideline ruling that a sentence of 15 months' imprisonment should be applied in such cases.

The spokesman also warned that it is an offence for any person to have landed in Hong Kong unlawfully, and to remain in Hong Kong without the authority of the Director. Offenders are liable upon conviction to a maximum fine of \$25,000 and up to three years' imprisonment.

The spokesman reiterated that it is a serious offence to employ people who are not lawfully employable. The maximum penalty is imprisonment for

three years and a fine of \$350,000. 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. The maximum penalty for failing to inspect such a document is imprisonment for one year and a fine of \$150,000.

Under the existing mechanism, the ImmD will, as a standard procedure, conduct initial screening of vulnerable persons, including illegal workers, illegal immigrants, sex workers and foreign domestic helpers, who are arrested during any operation with a view to ascertaining whether they are trafficking in persons (TIP) victims. When any TIP indicator is revealed in the initial screening, the officers will conduct a full debriefing and identification by using a standardised checklist to ascertain the presence of TIP elements, such as threat and coercion in the recruitment phase, and the nature of exploitation. Identified TIP victims will be provided with various forms of support and assistance, including urgent interference, medical services, counselling, shelter, temporary accommodation and other supporting services. The ImmD calls on TIP victims to report crimes to the relevant departments.