

Hong Kong resident employer and his company convicted for employing illegal worker

A Hong Kong resident employer and his company that employed four illegal workers were jailed and fined at Shatin Magistrates' Courts on January 4.

During a joint operation conducted by the Immigration Department (ImmD), the Hong Kong Police Force and the Labour Department codenamed "Champion" on November 8, 2017, enforcement officers raided a restaurant in Tsim Sha Tsui. Four female Indonesian illegal workers were arrested for working as waitresses. The Hong Kong resident employer of the four illegal workers was also arrested.

The illegal workers were jailed by Shatin Magistrates' Courts earlier. The Hong Kong resident employer was charged at Shatin Magistrates' Courts on January 4 with four counts of being an employer of a person who was not lawfully employable as he did not take all practicable steps to ascertain whether the applicants were lawfully employable prior to employment. He pleaded guilty to the charges and was sentenced to nine weeks' imprisonment for each count. Parts of the sentences are to run consecutively, making a total of 18 weeks' imprisonment. In addition, the company holding the restaurant was also charged with four counts of employing a person not lawfully employable and was fined \$22,000 for each count, making a total fine of \$88,000.

The ImmD 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.