

Hong Kong resident employer jailed for employing illegal workers

A Hong Kong resident employer who employed six illegal workers was jailed at Shatin Magistrates' Courts yesterday (April 9).

During operation "Twilight" conducted on May 3, 2018, and an anti-illegal worker operation conducted on September 5, 2018, the Immigration Department (ImmD) officers raided Chinese restaurants in Fanling and Yuen Long respectively. Six illegal workers were arrested for working as dish washing workers. The Hong Kong resident employer of the illegal workers was also arrested.

The illegal workers were jailed by Shatin and Tuen Mun Magistrates' Courts earlier. The Hong Kong resident employer was charged at Shatin Magistrates' Courts yesterday with six counts of being an employer of a person who was not lawfully employable as she did not take all practicable steps to ascertain whether the applicants were lawfully employable prior to employment. After trial, she was convicted and sentenced to four months' imprisonment for each count with parts of the sentences to run consecutively, making a total of five months' imprisonment.

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.