

Illegal worker jailed (with photo)

The Immigration Department (ImmD) mounted an anti-illegal worker operation to combat illegal workers providing agent services for submitting applications for driving licences in Hong Kong on March 19. One illegal worker, who was a Mainland visitor, and one suspected Hong Kong resident employer were arrested.

Immigration officers found that social media platforms have been utilised by someone to advertise agent services for submitting applications for driving licences. After intelligence analysis, ImmD officers found that the service provider arranged for Mainland visitors to submit applications on behalf of customers at the Transport Department. Officers identified the target person and initiated an operation immediately. The person was arrested while providing agent services. The arrested person was a Mainland female, aged 61, who was permitted to stay in Hong Kong on visitor status. Under caution, she admitted that she came to Hong Kong to submit applications for others and would receive a monetary reward of HK\$100 for each application. A female Hong Kong resident, aged 33, was suspected of employing the illegal worker and was also arrested.

The illegal worker arrested was charged at the Shatin Magistrates' Courts today (March 21) with breaching her condition of stay in Hong Kong. She pleaded guilty to the charge and was sentenced to 54 days' imprisonment. The investigation into the suspected employer is ongoing.

"The ImmD will continue to strengthen enforcement actions against illegal employment and seek various means to publicise the serious consequences of employing illegal workers in order to raise public awareness of the issue. The ImmD will conduct target-oriented cyber patrols and take prompt enforcement actions if any person is found organising, arranging or instigating others to commit serious crimes such as employing illegal workers," an ImmD spokesman said.

The spokesman warned, "Any person who contravenes a condition of stay in force in respect of him/her shall be guilty of an offence. Also, visitors are not allowed to take employment in Hong Kong, whether paid or unpaid, without the permission of the Director of Immigration. Offenders are liable to prosecution and upon conviction face a maximum fine of \$50,000 and up to two years' imprisonment. Aiders and abettors are also liable to prosecution and penalties.

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.

Under the existing mechanism, the ImmD will, as a standard procedure, conduct an 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 threats 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 intervention, medical services, counselling, shelter, temporary accommodation and other supporting services. The ImmD calls on TIP victims to report crimes to the relevant departments immediately.

