

# Illegal workers jailed

Fourteen illegal workers were jailed by Shatin Magistrates' Courts on October 20 and 23.

The Immigration Department (ImmD) conducted a joint anti-illegal worker operation with the Hong Kong Police Force for two consecutive days from October 18 to 19 at the Tseung Kwan O industrial area. During the operation, a total of 14 illegal workers engaged in packaging work were arrested and 13 forged Hong Kong Identity cards were seized. The arrested illegal workers comprised six men and eight women, aged 37 to 55. Twelve arrested illegal workers were charged at the Shatin Magistrates' Courts on October 23 with one count of taking employment while being a person who, having been given permission to land in Hong Kong, had remained in Hong Kong in breach of their limit of stay imposed in relation to the permission; one count of possessing a forged Hong Kong identity card and one count of overstaying in Hong Kong. They pleaded guilty to all charges and were sentenced to 15 months' imprisonment for the first two counts and two months' imprisonment for the last count. All sentences are to run concurrently, making for a total of 15 months' imprisonment. Also, one arrested illegal worker was charged with one count of taking employment after landing in Hong Kong unlawfully and remaining in Hong Kong without the authority of the Director of Immigration, one count of remaining in Hong Kong without the authority of the Director after landing in Hong Kong unlawfully, one count of possessing a forged Hong Kong identity card and one count of possessing a false instrument. He pleaded guilty to all charges and was sentenced to 15 months' imprisonment for the first three counts and 12 months' imprisonment for the last count. All sentences are to run concurrently, making for a total of 15 months' imprisonment. The remaining one arrested illegal worker was hospitalised and his case was adjourned. Furthermore, the investigation into employing illegal workers and syndicate activities in providing forged Hong Kong identity cards is still ongoing and more arrests may be made.

Moreover, during a joint operation conducted by the ImmD and the Hong Kong Police Force codenamed "Champion" on October 17, enforcement officers raided a restaurant in Kwun Tong. One Indonesian female, aged 56, was arrested while working as a dishwashing worker. The illegal worker was charged at the Shatin Magistrates' Courts on October 20 with taking employment while being a person who, having been given permission to land in Hong Kong, had remained in Hong Kong in breach of her limit of stay imposed in relation to the permission, and breached her condition of stay. She pleaded guilty to the charge and was sentenced to 15 months' imprisonment. Meanwhile, she was also charged with one count of overstaying in Hong Kong. She was sentenced to eight months' imprisonment, with parts of the sentences to run consecutively, making a total of 20 months' imprisonment.

The ImmD spokesman warned that, as stipulated in section 38AA of the Immigration Ordinance, 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 is 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. Under the prevailing laws, it is an offence to use or possess a forged Hong Kong identity card or a Hong Kong identity card related to another person. Offenders are liable to prosecution and upon conviction face a maximum penalty of a \$100,000 fine and up to 10 years' imprisonment."

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.