

Immigration Department smashes illegal workers syndicate (with photo)

The Special Investigation Section of the Immigration Department (ImmD) mounted a series of territory-wide anti-illegal worker operations codenamed "Fireblade" from October 10 to 12 and successfully neutralised an illegal worker syndicate. A total of five syndicate members, 20 suspected illegal workers and eight suspected employers were arrested.

During the investigation into a case of illegal employment earlier this year, it was noted that a cleaning company had undertaken cleaning contracts with a number of restaurants and provided illegal workers to take up illegal employment at the restaurants. After months of investigation and intelligence analysis, the ImmD successfully identified a syndicate specialising in undertaking outsourced cleaning contracts with restaurants, claiming to provide lawfully employable workers while recruiting illegal workers at a lower cost to profit from it. The ImmD believed that the syndicate had operated for more than six months. Over 50 restaurants were involved and the value of outsourced contracts ranged from HK\$20,000 to HK\$50,000. It is estimated that the total amount of transaction handled by this syndicate exceeded HK\$17 million.

During the operation, the ImmD had raided a total of 16 premises, including four residential premises and 12 restaurants, and arrested a total of 33 persons, including five syndicate members aged 25 to 64. The ImmD had also apprehended 20 suspected illegal workers and eight suspected employers during the operation. The arrested suspected illegal workers comprises six men and 14 women, aged 23 to 55. Among them, two persons were holders of recognizance forms, which prohibit them from taking any employment. During the operation, three forged Hong Kong identity cards were unearthed and a considerable number of items were seized including bank statements, employment contracts, mobile phones and computer equipment. The investigation is still ongoing, and more persons involved in the case may be arrested.

An ImmD spokesman said, "Any person who contravenes a condition of stay in force in respect of him or 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 warned, "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. Offenders are liable to prosecution and upon conviction face a maximum fine of \$100,000 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 ImmD 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 or temporary accommodation and other supporting services. The ImmD calls on TIP victims to report crimes to the relevant departments immediately.

