

Restaurant director imprisoned for illegal employment of foreign domestic helper

A restaurant director pleaded guilty to a charge relating to the illegal employment of a foreign domestic helper and was sentenced at Shatin Magistrates' Courts yesterday (April 25) to two months' imprisonment.

The Immigration Department (ImmD) received earlier a complaint on a restaurant where a foreign domestic helper worked as a cleaning worker. Investigation ensued and the restaurant director and a foreign domestic helper were arrested during enforcement action. Investigators also unveiled that the arrested restaurant director was the contractual employer of the arrested foreign domestic helper.

After investigation, the arrested restaurant director was charged with one count of consent, connivance or neglect in the employment of a person who was not lawfully employable. The restaurant was also summonsed for employing a person not lawfully employable. The arrested foreign domestic helper was charged with one count of breach of condition of stay by taking up unapproved employment. At Shatin Magistrates' Courts yesterday, the restaurant director pleaded guilty to the charge and was sentenced to two months' imprisonment and the representative of the restaurant was fined \$6,000. The arrested foreign domestic helper also pleaded guilty to the charge against her and was sentenced to two months' imprisonment suspended for two years.

"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," an ImmD spokesman said.

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.

Under the existing mechanism, the ImmD will, as a standard procedure,

conduct 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.