

Ten persons arrested during anti-illegal worker operation

The Immigration Department (ImmD) mounted a territory-wide anti-illegal worker operation codenamed "Swordfish" today (January 13). A total of six suspected illegal workers and four suspected employers were arrested.

During the operation, ImmD investigators raided over 10 target locations including a restaurant, a warehouse, retail shops, a farm and an industrial building. The suspected illegal workers comprised one man and five women, aged 24 to 43. Among them, four persons were foreign domestic helpers (the Helper), one person was an overstayer and one person was a holder of recognisance form which prohibits her from taking up employment. Meanwhile, two men and two women, aged 39 to 63, were suspected of employing the suspected illegal workers. ImmD investigators found the suspected illegal workers on the target locations performing different jobs, including delivery, goods retailing and cleaning, etc.

"Any person who contravenes a condition of stay in force in respect of him 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 the Helper should only perform domestic duties for the employer specified in the contract. The Helper should not take up any other employment, including part-time domestic duties, with any other person. The employer should not require or allow the Helper to carry out any work for any other person.

In addition, the spokesman warned that, as stipulated in section 38AA of the Immigration Ordinance, illegal immigrants or people who are the subject of a removal order or a deportation order are 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. The Court of Appeal has issued a guideline ruling that a sentence of 15 months' imprisonment should be applied in such cases.

The 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.

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 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.