

Ten persons arrested during anti-illegal worker operations (with photos)

The Immigration Department (ImmD) mounted a series of territory-wide anti-illegal worker operations, including operations codenamed "Twilight" and "Rally", from August 9 to yesterday (August 12). A total of eight suspected illegal workers and two suspected employers were arrested.

During operations "Twilight" and "Rally", ImmD Task Force officers raided 22 target locations including construction sites, factories, a farm, an industrial building, massage parlours, recycling yards, residential buildings, restaurants and a warehouse. A total of eight suspected illegal workers and two suspected employers were arrested. The arrested suspected illegal workers comprised two men and six women, aged 29 to 51. Among them, one man and one woman were holders of recognisance forms, which prohibit them from taking any employment. In addition, four women were suspected of using and being in possession of forged Hong Kong identity cards. Furthermore, one man and one woman, aged 47 and 52, were suspected of employing the illegal workers.

"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 warned that, as stipulated in section 38AA of the Immigration (Amendment) Ordinance 2021, an illegal immigrant, overstayer, a person who is the subject of a removal order or a deportation order 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. The Court of Appeal has issued a guideline ruling that a sentence of 15 months' imprisonment should be applied in such cases. 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 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 (Amendment) Ordinance 2021, the maximum penalty for an employer employing a person who is not lawfully employable, i.e. an illegal immigrant, overstayer, a person who is the subject of a removal order or a deportation order 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 Immigration Department will continue to take resolute enforcement action to combat such offences.

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 immediately.

