

Twenty-nine persons arrested during anti-illegal worker operations

The Immigration Department (ImmD) mounted territory-wide anti-illegal worker operations codenamed "Twilight" and "Rally" and joint operations with the Labour Department to combat illegal employment activities at the Lunar New Year Fairs from January 20 to yesterday (January 23). A total of 19 suspected illegal workers and 10 suspected employers were arrested.

During operation "Twilight" and "Rally", ImmD Task Force officers raided 284 target locations including construction sites, a garbage collection depot, an industrial building, a park, premises under renovation, restaurants, salons, a shopping mall and wet markets. The suspected illegal workers comprised nine men and six women, aged 26 to 74. Among them, a woman was a holder of recognisance form, which prohibits her from taking any employment. In addition, two men and four women were suspected of using and being in possession of forged Hong Kong identity cards. Meanwhile, five men and a woman, aged 32 to 59, were suspected of employing the suspected illegal workers.

In addition, during the anti-illegal worker operations at the Lunar New Year Fairs, enforcement officers raided target stalls at eight Lunar New Year Fairs in Causeway Bay, Kwai Chung, Kwun Tong, Mong Kok, San Po Kong, Sha Tin, Tsuen Wan and Yuen Long. The suspected illegal workers comprised a man and three women, aged 26 to 38. Meanwhile, three men and a woman, aged 23 to 61, were suspected of employing the suspected illegal workers. Apart from mounting enforcement operations, ImmD officers also distributed leaflets to the stall keepers to remind them not to employ 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 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. 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 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. 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 screenings 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.