

Terms of non-permanent CFA judges extended

The following is issued on behalf of the Judiciary:

The Chief Executive has accepted the recommendations of the Chief Justice of the Court of Final Appeal to extend the terms of office of three non-permanent judges from other common law jurisdictions of the Court of Final Appeal for a period of three years:

(commencing May 31, 2020)

The Honourable Mr Justice Robert French

The Right Honourable Lord Reed of Allermuir

(commencing June 30, 2020)

The Right Honourable the Lord Collins of Mapesbury

The Hong Kong Court of Final Appeal Ordinance provides for a list of non-permanent Hong Kong judges and a list of judges from other common law jurisdictions. The term of appointment of such judges is three years. That term may be extended for one or more periods of three years by the Chief Executive acting in accordance with the recommendation of the Chief Justice.

Hong Kong Customs combats unfair trade practices of renovation service

Hong Kong Customs yesterday (May 21) arrested a renovation contractor suspected of having applied false trade descriptions to the renovation service he supplied, in contravention of the Trade Descriptions Ordinance (TDO).

Customs earlier received information alleging that a renovation contractor had made false claims of including some renovation items free of charge. However, the contractor later charged extra fees for those items. The renovation contractor was also suspected of making false claims related to the pricing and regarding the supplier of electrical appliance items involved. The total amount of the renovation works contract was \$370,000.

After an investigation, Customs officers yesterday arrested a 49-year-old man.

An investigation is ongoing and the arrested man has been released on bail pending further investigation.

Customs reminds traders to comply with the requirements of the TD0 and consumers to procure services at reputable shops.

Under the TD0, any trader who applies a false trade description to a service supplied to a consumer commits an offence. The maximum penalty upon conviction is a fine of \$500,000 and imprisonment for five years.

Members of the public may report any suspected violations of the TD0 to Customs' 24-hour hotline 2545 6182 or its dedicated crime-reporting email account (crimereport@customs.gov.hk).

Effective Exchange Rate Index

The effective exchange rate index for the Hong Kong dollar on Friday, May 22, 2020 is 109 (up 0.3 against yesterday's index).

Illegal worker jailed

A Vietnamese illegal worker holding a recognisance form was jailed by Shatin Magistrates' Courts yesterday (May 21).

During operation "Breakthrough" conducted on May 19, Immigration Department (ImmD) investigators raided a restaurant in Tin Shui Wai. A female Vietnamese, aged 49, was arrested while working as a dish washing worker. Upon identity checking, she produced for inspection a recognisance form issued by the ImmD, which prohibits her from taking employment. Further investigation revealed that she was a non-refoulement claimant. An employer suspected of employing the illegal worker was also arrested and the investigation is ongoing.

The illegal worker was charged at Shatin Magistrates' Courts yesterday with taking employment after landing in Hong Kong unlawfully and remaining in Hong Kong without the authority of the Director of Immigration or while being a person in respect of whom a removal order or deportation order was in force. She pleaded guilty to the charge and was sentenced to 15 months' imprisonment.

The ImmD 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 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 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.

CE's Statement

â€‹In response to the deliberation by the National People's Congress (NPC) of a draft Decision on establishing and improving the legal system and enforcement mechanisms for the Hong Kong Special Administrative Region (HKSAR) to safeguard national security ("the Decision"), the Chief Executive, Mrs Carrie Lam, who is attending the opening ceremony of the third session of the 13th NPC in Beijing, issued the following statement:

The HKSAR is an inalienable part of the People's Republic of China. It is a local administrative region which shall enjoy a high degree of autonomy and come directly under the Central People's Government. Safeguarding national sovereignty, security and development interests is the

constitutional requirement of the HKSAR, the duty of the HKSAR Government, and also in the interest of all the Hong Kong residents. In view of the increasingly serious situation the HKSAR is facing in relation to national security and the difficulty of the executive and legislative authorities of the HKSAR to complete on their own legislation for safeguarding national security in the foreseeable future, the HKSAR Government supports the NPC's deliberation of the Decision to establish and improve at the national level the legal system and enforcement mechanisms for the HKSAR to safeguard national security.

Legislation on national security is undoubtedly within the purview of the Central Authorities. Just as it is in any other country in the world, it is the authority of the country to legislate on its own national security. The NPC is the highest organ of state power, and its decisions have the highest authority with legal effect. The Decision optimises the HKSAR's implementation of the system and mechanisms concerning national security under the Constitution and the Basic Law. The Decision does not amend the Basic Law or replace or repeal Article 23 of the Basic Law, which stipulates that the HKSAR has constitutional responsibilities and legal obligations to enact laws on its own to prohibit acts that endanger national security. In other words, the HKSAR still has the responsibility to complete legislation for Article 23 of the Basic Law as soon as possible.

The HKSAR Government noted that the Decision only targets acts of secession, subverting state power and organising and carrying out terrorist activities, as well as activities interfering with the HKSAR's internal affairs by foreign or external forces. These are exactly the situations which the political and business sectors in Hong Kong and members of the public have been worrying about over the past year. The situations have prompted the public to have a deeper understanding on the importance of national security and urge the HKSAR Government to respond proactively. The violence associated with the disturbances arising from the legislative exercise of the Fugitive Offenders Bill since June last year has been escalating and the emergence of various incidents involving explosives and firearms has posed the risk of terrorism, seriously jeopardising public safety. During this period, organisations advocating "Hong Kong independence" and "self-determination" incited protesters, especially young people, to desecrate and burn the national flag openly, vandalise the national emblem and storm the Central People's Government's office in Hong Kong, and made plans to mobilise so-called "international support" to interfere with Hong Kong's affairs. These acts smeared the implementation of "One Country, Two Systems" in Hong Kong and challenged openly the authority of the Central Government and the HKSAR Government. Further, some of the political parties' members proclaimed many times that they would paralyse the HKSAR Government. Some other people begged for foreign governments to interfere with Hong Kong's affairs and even to impose sanctions on Hong Kong. This kind of behaviour has crossed the baseline of "One Country", sabotaging the relationship between the Central People's Government and the HKSAR, threatening China's sovereignty and national security and challenging the authority of the Central Authorities and the Basic Law.

The fundamental objective of the Decision to be deliberated by the NPC is to safeguard national security and the prosperity and stability of Hong Kong, thereby better protecting the legitimate rights and freedoms of all members of the public in Hong Kong. I deeply believe that the national law to be enacted by the Standing Committee of the NPC will seek to practically and effectively prevent and curb acts and activities that seriously undermine national security, as well as sanction those who undermine national security by advocating "Hong Kong independence" and resorting to violence. The Decision and the enactment of the national law will be able to establish and improve the legal framework and enforcement mechanisms for the HKSAR to safeguard national security. They will not affect the legitimate rights and freedoms enjoyed by Hong Kong residents under the law, or the independent judicial power, including that of final adjudication, exercised by the Judiciary in Hong Kong.

After the passage of the Decision, the HKSAR Government will fully co-operate with the Standing Committee of the NPC to complete the legislation as soon as possible to discharge its responsibility of safeguarding national security to ensure the long-term prosperity and stability of Hong Kong under "One Country, Two Systems".