

Hong Kong resident employer and her company convicted for employing illegal worker

A Hong Kong resident employer and her company that employed an illegal worker were jailed and fined at Shatin Magistrates' Courts yesterday (July 15).

During a joint operation conducted by the Immigration Department (ImmD) and the Hong Kong Police Force codenamed "Champion" on September 13, 2018, enforcement officers raided a restaurant in Mong Kok. A female Indonesian illegal worker was arrested for working as a dish washing worker. The Hong Kong resident employer of the illegal worker was also arrested.

The illegal worker was jailed by Shatin Magistrates' Courts earlier. The Hong Kong resident employer was charged at Shatin Magistrates' Courts yesterday with being an employer of a person who was not lawfully employable as she did not take all practicable steps to ascertain whether the applicant was lawfully employable prior to employment. She pleaded guilty to the charge and was sentenced to six weeks' imprisonment. In addition, the company holding the restaurant was also charged with employing a person not lawfully employable and was fined \$8,000.

The ImmD 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.