

Illegal worker jailed

An illegal worker was sentenced to 15 months' imprisonment by the Shatin Magistrates' Courts yesterday (January 23).

A 49-year-old Chinese female was arrested by the Immigration Department (ImmD) investigators in January 2025 for overstaying in Hong Kong for 14 months since arriving in the city in November 2023. During the investigation, officers noticed that the woman was in possession of a large amount of cash. ImmD investigators thus performed a comprehensive investigation against the activities of the arrested female during her stay in Hong Kong. Under caution, the arrested female admitted to have worked as a masseuse at various local massage parlors during her overstay period, receiving between \$50 to \$100 for each session.

The illegal worker was charged at the Shatin Magistrates' Courts on January 23 with taking employment while being a person who, having been given permission to land in Hong Kong, had remained in Hong Kong in breach of her limit of stay imposed in relation to the permission. Meanwhile, she was also charged with overstaying in Hong Kong. She pleaded guilty to all the charges and was sentenced to a total of 15 months' imprisonment. An investigation against the employer is still underway, and the ImmD does not rule out the possibility of further arrests and prosecutions.

The ImmD spokesman warned that, as stipulated in section 38AA of the Immigration Ordinance, an illegal immigrant, a person who is the subject of a removal order or a deportation order, an overstayer 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 spokesman reiterated that it is a serious offence to employ people who are not lawfully employable. Under the Immigration Ordinance, the maximum penalty for an employer employing a person who is not lawfully employable, i.e. an illegal immigrant, a person who is the subject of a removal order or a deportation order, an overstayer 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 ImmD will continue to take resolute enforcement action to combat such offences.

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 immediately.