

Fifteen persons arrested during anti-illegal worker operations (with photo)

The Immigration Department (ImmD) mounted a series of territory-wide anti-illegal worker operations codenamed "Twilight" and "Lightshadow" and a joint operation with the Hong Kong Police Force codenamed "Champion" for four consecutive days from April 25 to April 28. A total of nine suspected illegal workers, five suspected employers and one person suspected of using and being in possession of a Hong Kong identity card related to another person were arrested.

During the anti-illegal worker operations, ImmD Task Force officers raided 37 target locations including a car park, food and beverage areas, a garbage collection depot, premises under renovation, residential buildings, restaurants and retail shops. A total of eight suspected illegal workers and four suspected employers was arrested. The arrested suspected illegal workers comprised two men and six women, aged 31 to 46. Among them, two men and two women were holders of recognisance forms, which prohibit them from taking any employment. In addition, one woman was suspected of using and being in possession of a forged Hong Kong identity card. Four men, aged 46 to 56, were suspected of employing the illegal workers.

In addition, during the "Champion" operation, enforcement officers raided 14 target locations in Central district including restaurants, retail shops and a salon. One suspected illegal worker, one suspected employer and one person suspected of using and being in possession of a Hong Kong identity card related to another person were arrested. The suspected illegal worker is a man, aged 38, who is a holder of a recognisance form, which prohibits him from taking any employment. Meanwhile, one woman, aged 47, was suspected of employing the illegal worker. The person suspected of using and being in possession of a Hong Kong identity card related to another person is a man, aged 51.

"Any person who contravenes a condition of stay in force in respect of him or her 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, 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. Under the prevailing laws, 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 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 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 ImmD 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 or temporary accommodation and other supporting services. The ImmD calls on TIP victims to report crimes to the relevant departments immediately.



Judicial appointments

The following is issued on behalf of the Judiciary:

The Judiciary today (April 29) announced the appointment of two Recorders of the Court of First Instance of the High Court.

Miss Maggie Wong Pui-kei, SC, and Mr Derek Chan Ching-lung, SC, are appointed Recorders of the Court of First Instance of the High Court. Their appointments will take effect on May 1, 2022, for a term of three years.

The appointments are made by the Chief Executive on the recommendation of the Judicial Officers Recommendation Commission.

The biographical notes of the two appointees are as follows:

Miss Maggie Wong Pui-kei, SC

Miss Wong, SC, was born in 1973 in Hong Kong. She obtained her LL.B. from the University of Hong Kong in 1995. She further obtained her P.C.LL. from the University of Hong Kong in 1996. She was called to the Hong Kong Bar in 2000, and in Brunei Darussalam in 2004 respectively. She has been in private practice in Hong Kong since 2001. She was appointed as Senior Counsel in 2018. She was appointed as Deputy Judge of the Court of First Instance of the High Court for periods from 2020 to 2022.

Mr Derek Chan Ching-lung, SC

Mr Chan, SC, was born in 1979 in Hong Kong. He obtained his LL.B. and Bachelor of Commerce from the University of Auckland, New Zealand, in 2001.

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Government makes “restriction-testing declaration” and issues compulsory testing notice in respect of specified “restricted area” in Fung Tak Estate, Diamond Hill

â€‹The Government today (April 29) exercised the power under the Prevention and Control of Disease (Compulsory Testing for Certain Persons) Regulation (Cap. 599J) to make a "restriction-testing declaration" (declaration) effective from 4pm, under which people (hereafter referred to as "persons subject to compulsory testing") within the specified "restricted area" in Diamond Hill (i.e. Toi Fung House, Fung Tak Estate, Diamond Hill, excluding non-domestic units on G/F, see Annex.) are required to stay in their premises and undergo compulsory testing. Persons subject to compulsory testing are required to stay in their premises until all such persons identified in the "restricted area" have undergone testing and the test results are mostly ascertained. The Government aims at finishing this exercise at around 8am tomorrow (April 30). The operation may be extended depending on test results.

A Government spokesman said, "Under Cap. 599J, the Government can, according to the needs of infection control, make a 'restriction-testing declaration'. Having reviewed a basket of factors, including the viral load in sewage, the information of relevant positive cases, other circumstantial factors, and conducted a risk assessment, the Government decided to make a 'restriction-testing declaration' for the relevant area."

The Government will set up temporary specimen collection stations at the "restricted area" and request persons subject to compulsory testing to undergo testing before 9pm today. Arrangements will be made for persons subject to compulsory testing to undergo a nucleic acid test at specimen collection stations where dedicated staff will collect samples through combined nasal and throat swabs. Persons subject to compulsory testing must stay at their place of residence until all test results are ascertained to avoid cross-infection risk. The Government will make arrangement to facilitate specimen collection for people with impaired mobility. All persons in the "restricted area" who have tested positive in the past three months, including positive cases identified either by nucleic acid tests recorded by the Department of Health (DH) or by rapid antigen tests that have been self-declared to the DH, are not required to undergo testing in this compulsory testing exercise.

The Government spokesman said, "We understand that this exercise will cause inconvenience to the public. The Government has made arrangements to carry out testing for all persons present in the 'restricted area' as soon as possible. The aim is to strive to complete testing of all identified persons

subject to compulsory testing and confirm the results, and finish the exercise at around 8am tomorrow. The Government will make a public announcement when the declaration expires officially. In the cases in which employees are unable to go to work because of the declaration, the Government hopes their employers can exercise discretion and not deduct the salaries or benefits of the employees."

If staying in the "restricted area" will cause unreasonable hardship to individuals who are not residents in the area when the declaration takes effect, government officers may exercise discretion and allow that person to leave the area after considering the individual circumstances. That person must have followed the instructions to undergo testing and leave his/her personal information for contact purposes.

According to the compulsory testing notice to be issued today, any persons other than those specified above who had been present at the above building for more than two hours from April 23 to April 29, 2022, even if they were not present in the "restricted area" at the time when the declaration took effect, must undergo compulsory testing on or before May 1, 2022. As a mutant strain is involved, for prudence's sake, vaccinated persons and persons who have recently been tested are also required to undergo testing.

For the 2022 Hong Kong Diploma of Secondary Education Examination (HKDSE) candidates who are within the "restricted area" and need to sit the HKDSE on the following day, or examination personnel who need to take up invigilation duties for HKDSE on the following day, the Government appeals to them to go to the temporary specimen collection stations setup within the "restricted area" before 8pm today and present to the prescribed officer the relevant documents (including the identification documents and HKDSE admission forms, or a certification letter issued by the school of the examination personnel) proving their identities. These HKDSE candidates and examination personnel will be given priority testing with a view to enabling them to obtain test results on the following day as early as possible. The priority testing arrangement also applies to the family members who live together with these HKDSE candidates and examination personnel, so as to identify those HKDSE candidates and examination personnel who have become close contacts of confirmed cases for making quarantine arrangement.

If any HKDSE candidate or examination personnel needs to leave the "restricted area" for the examination centre before the declaration is revoked, he/she can make a request to the prescribed officers within the "restricted area". The prescribed officer may allow the candidate or the examination personnel to leave the "restricted area" after verifying his/her testing result(s) and recording the relevant information. For the safety of all candidates and examination personnel, only those candidates and examination personnel who have obtained negative test results will be allowed to enter the examination hall. For details, please read the relevant information issued by the Hong Kong Examinations and Assessment Authority earlier www.hkeaa.edu.hk/DocLibrary/HKDSE/PPT_2022DSE_compulsory_testing_arrangements_eng.pdf.

The Government will provide food packs and necessity packs for persons subject to compulsory testing, so as to facilitate the meal arrangements and daily needs of some persons subject to compulsory testing. In addition, the Home Affairs Department has set up a hotline (Tel: 2835 1473) which starts operation at 4pm today for residents restricted by the declaration to make enquiries and seek assistance. The Social Welfare Department will also provide assistance to the affected persons.

The Government appeals to persons subject to compulsory testing for their full co-operation by registering and undergoing testing, and waiting for the results patiently at home. The Government will strictly follow up on whether the persons concerned have complied with the compulsory testing notices and "restriction-testing declaration". Any person who fails to comply with the compulsory testing notices commits an offence and may be fined a fixed penalty of \$10,000. The person would also be issued with a compulsory testing order requiring him or her to undergo testing within a specified time frame. Failure to comply with the compulsory testing order or the "restriction-testing declaration" is an offence and the offender would be liable to a fine at level 5 (\$50,000) and imprisonment for six months.

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