

LCQ18: Illegal provision of tourist guide services in Hong Kong

Following is a written reply by the Secretary for Commerce and Economic Development, Mrs Rita Lau, to a question by the Hon Paul Tse in the Legislative Council meeting today (October 28):

Question:

It has been reported that illegal provision of tour guide services in Hong Kong by mainland tour escorts has become rampant. Moreover, quite a number of members of the trade have reflected to me that the Travel Industry Council of Hong Kong (TIC) is unable to take proper action despite receiving the relevant reports. In this connection, will the Government inform this Council:

(a) whether it knows the respective numbers of complaints and reports received by TIC and the Immigration Department concerning the aforesaid situation in each of the past three years and, among such complaints and reports, the number of cases in which prosecutions were instituted; whether it has assessed the loss of job opportunities by local tour guides because of the aforesaid situation;

(b) of the major reasons for failing to initiate prosecutions in respect of some of the complaints and reports in (a), as well as the ways to plug the loopholes concerned; and

(c) what policies and measures are currently in place to prevent and curb mainland tours from assigning mainland tour escorts to provide tour guide services illegally in Hong Kong, so as to safeguard the job opportunities of local tour guides and escorts?

Reply:

President,

According to the Immigration Ordinance (Cap. 115), visitors are not allowed to take up employment during their stay in Hong Kong. Any non-Hong Kong resident who has taken up employment without permission, including working as a tourist guide, breaches his or her condition of stay and is liable to prosecution and, on conviction, a maximum penalty of \$50,000 in fine and imprisonment for two years. If a travel agent in Hong Kong employs a non-Hong Kong resident who is not permitted to work in Hong Kong as a tourist guide, he or she commits the offence of employing a person who is not lawfully employable, and is liable on conviction to a maximum penalty of \$350,000 in fine and imprisonment for three years.

Furthermore, under the directives of the Travel Industry Council of Hong Kong (TIC), travel agents in Hong Kong can only employ holders of Tourist Guide Pass issued by the TIC to provide tourist guide services to inbound visitors. A tour escort who is a non-Hong Kong resident but provides tourist guide services to inbound visitors has contravened the Immigration Ordinance. The Hong Kong ground operator who employs him or her has violated the TIC's directives, and the TIC could issue a warning to or impose a fine on the ground operator. Repeated offences may lead to suspension or revocation of TIC membership and correspondingly the travel agent licence.

(a) From 2007 till the end of September, 2009, the TIC received five anonymous calls concerning provision of tourist guide services by non-Hong Kong residents (one in 2008, and two each in 2007 and 2009). As these callers did not provide any information on the cases, the TIC was unable to follow up, nor report to the Immigration Department (ImmD).

From 2007 till the end of September, 2009, ImmD received

a total of nine reports concerning provision of tourist guide services by persons not permitted to work in Hong Kong (two each in 2007 and 2008 and five from January to September, 2009). ImmD could not follow up on these nine cases due to insufficient information.

The Government has not conducted assessment on the impact of illegal provision of tourist guide services by non-Hong Kong residents on the employment of local tourist guides.

(b) The TIC and ImmD were both unable to follow up on the complaints and reported cases received in the past three years because of insufficient information and anonymity of the complaints. Therefore no prosecution could be initiated. There is no loophole in the legislation and the enforcement arrangements.

(c) The Government has been taking rigorous actions against illegal employment to safeguard job opportunities for the local workforce. To combat illegal employment, the Government will continue to take a three-pronged approach by tackling the problem at source, rigorous enforcement, and publicity and education. ImmD has a 24-hour hotline and a fax line for reporting illegal employment by the public. Reports may also be made by e-mails and through the "Online Reporting of Immigration Offences" System.

In August, 2009, the TIC issued a notice to travel agents in Hong Kong, stating that only tourist guides with a valid pass appointed by licensed travel agents can provide tourist guide service to inbound visitors. The notice also urges the trade to comply with the Travel Agents Ordinance, the Immigration Ordinance and the relevant TIC directives when appointing tourist guides, and report illegal employment to law enforcement departments.

The Tourism Commission and the TIC maintain close liaison with the tourism administrations of Guangdong Province,

Shenzhen and Guangzhou, and have urged them to ask Mainland tour operators to comply with Hong Kong's regulations when organising tours to Hong Kong, including employment of tourist guides with valid passes. In conducting routine inspections of inbound tour groups, the TIC will check the identities of tourist guides, and will report any suspected cases of illegal employment. ImmD's "Anti-illegal Workers Combat Squad" will conduct undercover surveillance at black spots of illegal workers, and take appropriate actions on reports or reliable intelligence.

Industry self-discipline and reliable and detailed intelligence from informants are most helpful to effective enforcement against illegal employment.

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