

Legco Question No. 8

(Written Reply)

Date of meeting: 22 October 2003

Asked by: Hon LAU Kong-wah

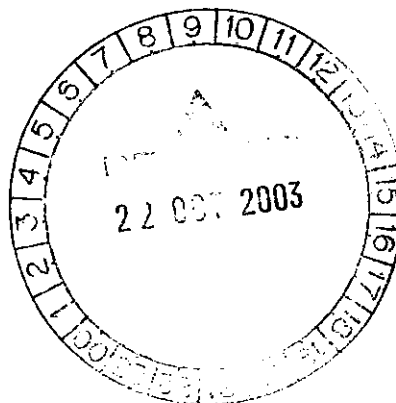
Replied by: Secretary for Security

Question

Regarding the penalties imposed by the court on employers for employing illegal workers, will the Government inform this Council of :

- (a) the number of employers convicted of employing illegal workers and the details of such cases;
- (b) the number and percentage of cases in which convicted employers were sentenced to imprisonment; and
- (c) the average term of imprisonment imposed on these employers; whether the court will be invited to consider reviewing the guideline on the term of imprisonment for such offence, with a view to strengthening the deterrent effect

in the past three years?



Q. 1

Reply:

Madam President,

- (a) In the past three years, the respective numbers of employers convicted of employing illegal workers were 264 (in 2000), 277 (in 2001), 303 (in 2002) and 287 (from January to September 2003).

Due to the substantial number of cases, it is difficult to set out details of employers convicted of employing illegal workers in the past three years. Furthermore, statistics kept by the Immigration Department (ImmD) cannot be broken down into the types of business in which the convicted employers are engaged. ImmD has however analysed selected sample cases. The results reveal that the arrestees are mainly employed as decorators, building maintenance workers, restaurant labourers, food premises workers, salespersons, transportation labourers and cleaning workers.

- (b) The number and percentage of cases in which convicted employers were sentenced to imprisonment in the past three years are as follows:

Year	2000	2001	2002	2003 (Jan-Sept)
Number of convicted employers	264	277	303	287
Number of employers sentenced to imprisonment	12	29	25	40
Percentage	4.5%	10.5%	8.3%	13.9%

(c) The average term of imprisonment imposed on employers for employing illegal workers in the past three years are as follows:

Year	2000	2001	2002	2003 (Jan-Sept)
Average term of imprisonment	86 days	151 days	119 days	98 days

Generally speaking, the court takes into account various factors in meting out sentences. Such factors include facts of the case, previous sentencing guidelines, individual mitigating petitions, and whether the defendant pleaded guilty and has any past criminal records. To target the problem at source, it has always been the view of ImmD that stringent actions must be taken against employers hiring illegal workers. If the sentences of individual cases are reckoned manifestly inadequate, ImmD will seek legal advice from the Department of Justice and consider applying for a sentence review or lodging an appeal, with a view to increasing the deterrent effect on employers.