

S for S and SJ speak on the application for temporary relief in relation to the judicial review on foreign domestic helpers' right of abode in HK

Following is the transcript of remarks (English portion) by the Secretary for Security, Mr Ambrose S K Lee and the Secretary for Justice, Mr Wong Yan Lung, SC, at a media session on the application for temporary relief in relation to the judicial review on foreign domestic helpers' right of abode in Hong Kong at the ground floor lobby, West Wing, Central Government Offices, Central, this afternoon (October 26):

Secretary for Security: After hearing the Government's application for temporary relief, the Court of First Instance today decided to remit the case of the judicial review applicant to the Registration of Persons Tribunal.

At the same time, the Court of First Instance agrees that the judgment handed down on September 30 does not impose an obligation on the Government to take positive action on the right of abode applications submitted by other foreign domestic helpers. The Court of First Instance further states that the position of the Government to continue to withhold processing such applications does not constitute contempt of court or undermine the rule of law of Hong Kong. In light of the view of the Court, the Government does not consider it necessary to pursue further the temporary relief application.

The Government welcomes the Court of First Instance's understanding of the Government's position to withhold processing of right of abode applications from foreign domestic helpers. The Government believes that this serves the public interest.

Accordingly, the Government will continue to withhold processing right of abode applications from other foreign domestic helpers, until the Court of First Instance judgment is reversed upon appeal or final determination of the

constitutionality of section 2(4)(a)(vi) of the Immigration Ordinance.

At this stage, we do not consider it necessary to change the existing arrangements for the entry and employment of foreign domestic helpers in order to avoid disruptions to the household care and domestic arrangements of many foreign domestic helper-employing families.

The Government has already lodged an appeal to the Court of Appeal against the Court of First Instance judgment of September 30 on the constitutionality issue.

The Government has already applied to the Court of Appeal for an expedited hearing of the appeal. The Government will write further to the Court urging the Court to grant expedited hearing.

The Government will make its best endeavours to present cogent arguments before the Court of Appeal to seek to reverse the Court of First Instance judgment.

Reporter: What does the government worry that...

Secretary for Security: It's the right of every resident in Hong Kong. If they are not satisfied with any decision of the Government or the Administration, they can seek judicial review on our decision. I think this is the everyday life in Hong Kong. We have judicial reviews everyday. So it is not what we are worrying. It's a fact of life.

Reporter: Has there been a sharp increase in the number of applications ...?

Secretary for Security: There has been an increase in the number of applications. Previously, the number of applications submitted, I mean right of abode applications submitted by foreign domestic helpers is only on average one

per month. But in the recent months, there have been some increases, say 16 and 18 per month. Just yesterday, I was told there were 20 just yesterday. There have been some increases.

Secretary for Justice: As you know, we have already put in our submissions before the court. So the court was fully on top of the submissions. At the very early stage of the hearing this morning, the Judge gave us some very clear indications, as you are probably aware of already. The Judge, first of all, agreed with us that the judgment he made on September 30, including also any order that he made today in respect of the applicant, was only applicable to the applicant. It, of itself, doesn't compel the Government to take any positive action in relation to any other person. It does mean that the judgment itself does not compel the Government to process the applications by anybody else. But what is more important is that the Judge further pointed out certain very pertinent observation. He said that is of course still a First Instance judgment which, as we all know, under the common law system, is liable to be reversed on appeal. As you know, we have in fact lodged an appeal. He also mentioned that he had borne in mind the ramifications or effect of the ruling. He also indicated that pending appeal, if the Government were to adopt a view or stance which is different from the First Instance judgment and act accordingly, that doesn't constitute contempt of court or lead to any undermining of the rule of law in Hong Kong. That is very significant. That was in fact the concern we had when we pursued the application. In view of the clear views of the court, we have considered the position carefully and we considered it unnecessary for us to pursue the application further before the court.

(Please also refer to the Chinese portion of the transcript.)

Ends/Wednesday, October 26, 2011