

~~\$100,000 fines over building site illegals~~

KUMAGAI Gumi (HK) Ltd and Sung Foo Kee Ltd yesterday became the first main contractors to be prosecuted for hiring illegal immigrants.

The companies criticised the amendment to the Immigration Ordinance which made it possible to bring the case against them.

Both companies pleaded guilty in Kwun Tong Law Court yesterday to separate charges of being in control of building sites where 20 illegal immigrants were arrested last year.

Sentencing, Magistrate Ian Britton gave Kumagai Gumi and Sung Foo Kee 20 days to each pay fines of \$100,000.

The companies became the first victims of Section 38(a) of the new Immigration Ordinance which was amended in November last year to include the prosecution of main contractors in control of sub-contractors and other

persons employing illegal immigrants on site.

Breach of the ordinance carries a maximum fine of \$250,000.

After the guilty pleas, senior crown counsel Peter Chapman withdrew two other charges faced by both companies relating to the same offences.

The companies' counsel, Paul Starr, described sections of the draft as "extremely unsatisfactory".

Mr Starr said the main problem with the new legislation was its ambiguity in describing statutory defence for offending companies.

He said companies could claim a statutory defence if they showed they had taken "all practicable steps" to prevent the employment of illegal immigrants.

"The legislation has not yet seen fit to lay down any guidelines on any code of practice as to what might constitute 'all prac-

ticable steps'," he said.

"The present unsatisfactory lack of any sort of guidelines as to its meaning leads to main contractors having to second guess what 'all practicable steps' means, leaving them to spend vast sums of money trying to interpret the legislation as best they can."

In handing down the fine Mr Britton took into account the clean record of the defendants, the guilty plea and the short time between the announcement of the amended ordinance and the offences (between seven and 13 days).

"But to send a message to the Government in the form of a reduced fine would fly in the face of what the legislation ruled," he said.

A summons issued to Hsin Chong Company Ltd was dropped by the crown.