

VIETNAM DUTY OF CARE AND OCCUPATIONAL HEALTH & SAFETY

A legal perspective and employer best practices

International SOS
Foundation



VIETNAM CHAMBER OF COMMERCE AND INDUSTRY



PHUOC & PARTNERS





TABLE OF CONTENTS

- 2** Vietnam mobile workforce
- 3** The corporate and legal landscape of occupational health and safety in Vietnam
- 5** Key legislation on occupational health for all industries
- 9** The outbound perspective: Vietnamese employees assigned overseas
- 11** The inbound perspective: Foreign employees working in Vietnam
- 12** Calculation of compensation for employees working in Vietnam & overseas
- 14** Prevent
- 15** Case study
- 16** Risk management recommendations & conclusions
- 17** About us

VIETNAM DUTY OF CARE AND OCCUPATIONAL HEALTH & SAFETY: A LEGAL PERSPECTIVE AND EMPLOYER BEST PRACTICES

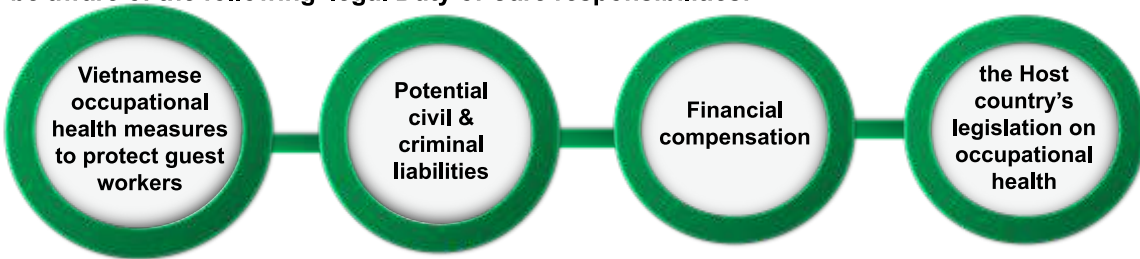


Vietnamese companies expanding their global business operations are rapidly increasing the number of workers assigned overseas, in locations such as: ASEAN, USA, Venezuela, Algeria, Russia among others.

With international assignments on the rise, employers' Duty of Care to their employees is required to mitigate travel related risks, fulfil occupational health provisions and guarantee business continuity.

Likewise, foreign investment in Vietnam has rapidly grown, leading to a high increase in number of business travellers and expatriates working in Vietnam. mobile workers assigned outside Vietnam.

Vietnamese legislation includes Vietnamese employer's responsibilities on how to provide a safe environment for their employees working locally and abroad. As an employer, an organisation must be aware of the following legal Duty of Care responsibilities:

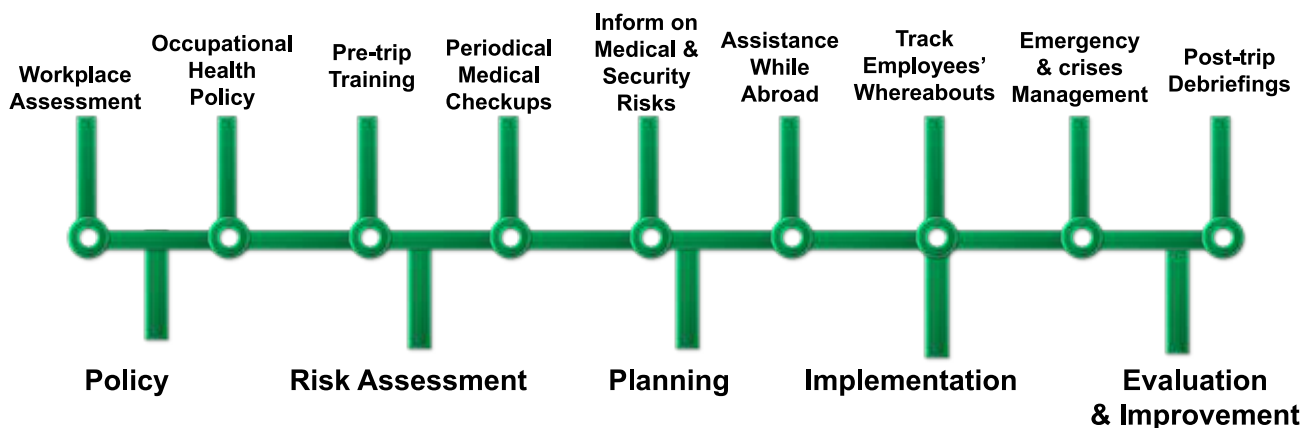


Beyond legal obligations, employers should ensure adequate health, safety, security and legal protection for their employees whether they are based locally or on an international or remote assignment for the following reasons:

- Reduces costly interruptions to business activities, improves morale and strengthens productivity.
- Business continuity
- Maintain brand reputation
- Positive return on investment
- This protection is an important part of corporate social responsibility.

Duty of Care Framework

This document provides a framework to help organisations make work, travel and international assignments safer, healthier and more secure. This is attainable through compliance of occupational health legislation and the implementation of a risk mitigation system within your organisation.



Safety, Health & Security Risk Mitigation



THE CORPORATE AND LEGAL LANDSCAPE OF OCCUPATIONAL HEALTH AND SAFETY IN VIETNAM

Vietnam is one of South-East Asian's fastest-growing economies, with the prospect of becoming an intra-regional leading market by 2020.¹ To fulfil this goal, organisations from all sectors have expanded their business operations to different regions around the world. As a result, the number of Vietnamese mobile workers posted abroad has remarkably increased, along with the employer's challenge to keep their employees safe and meeting their Duty of Care responsibilities. At the same time, Vietnam has received a great number of international workers which are subject to the local legislation.

Therefore, this paper is a comprehensive guideline which presents two main scenarios of Duty of Care from an inbound and outbound perspective. The inbound perspective refers to the legal responsibilities of employers hiring local and international workers based in Vietnam. The outbound perspective is based on the employers' Duty of Care when assigning employees overseas.

VIETNAMESE EMPLOYEES ASSIGNED OVERSEAS

With international assignments on the rise, Vietnamese mobile workers are being assigned to countries with variable standards of medical care and political stability; this in turn creates risks for both employer and employee. These risks could range from common travel illnesses like food poisoning to pandemic diseases and security hazards which include petty crimes, road accidents, protests and terrorist attacks. These threats can dramatically affect an employee's health and security which can lead to disruption of

business operations and damage to a company's reputation.

FOREIGN EMPLOYEES WORKING IN VIETNAM

Likewise, foreign investment in Vietnam has rapidly grown, leading to a high increase in the number of business travellers and expatriates working in Vietnam. Hence, multinational companies will have the same Duty of Care as locally-based companies when it comes to complying occupational health legislation which protects all employees, including international workers.

Given both scenarios above, Vietnamese legislation includes Vietnamese employer's responsibilities on how to provide a safe work environment for their employees working locally and abroad. To enforce these regulations, national laws entitle employees to claim compensation when they suffer an accident or injury in connection with an overseas assignment.

Ultimately, this paper is a guideline for employers, containing a legal framework and risk management recommendations on how to mitigate risks and fulfil an employer's legal Duty of Care while ensuring employees safety during business operations within national boundaries or overseas.

¹The World Bank, Vietnam Country Prolife Vietnam's 2011 - 2020 Socio-Economic Development Strategy (SEDS) Sep 26, 2016 <http://www.worldbank.org/en/country/vietnam/overview>

GENERAL LEGAL PROVISIONS ON EMPLOYEES' HEALTH AND WELFARE AT THE WORKPLACE

Although the term Duty of Care is not explicitly written in the Vietnamese legislation, the essence of this legal concept can be found in different laws outlining employers' responsibilities to safeguard their employees at the workplace. This duty extends to any place where an employee is performing a work-related activity; whether the employee is based in Vietnam or is assigned overseas. Therefore, there are numerous legal provisions which state an employer's obligations (including both domestic and foreign invested companies; international or multinational companies, representative offices and branches of foreign companies in Vietnam) to ensure safe conditions and to protect the welfare of all employees.

These legal provisions cover:

- Labour accidents and occupational diseases;
- Welfare for employees who are under high risk conditions;
- The employees' safety at the workplace;
- Employers' obligations to contribute on a monthly basis to a compulsory labour accident, occupational disease insurance, in order to cover allowances for employees who suffer labour accidents or occupational diseases;

- Additionally, employers also have to bear the financial costs, compensation and allowances; in case the initial arrangement doesn't provide enough coverage.

Likewise most companies based in Vietnam must have several policies and programmes in place to ensure the employees' occupational health and safety at the workplace according to Vietnamese labour legislation which includes:

- Health checks;
- Personal protective equipment and facilities;
- Contribution of compulsory labour accident, occupational disease insurance;
- Compulsory health insurance.

This paper is intended to provide a comprehensive view of the legal framework on employers' obligations to employees' health and safety at the workplace for:

- (i) Vietnam-based companies which assign Vietnamese employees to work abroad; and
- (ii) International companies established in Vietnam.



KEY LEGISLATION ON OCCUPATIONAL HEALTH FOR ALL INDUSTRIES

Vietnamese legislation is based on communist legal theory and civil law. Therefore, the statutory laws are the official and principle source of the Vietnamese legal system. With regard to employers' obligation on the employee's occupational health and safety at the workplace, these are the **key legislations**:

- (a) Criminal Code No. 15/1999/QH10 passed by the National Assembly of Vietnam on 21 December 1999, as amended and supplemented on 19 June 2009 ("**Criminal Code 1999**");
- (b) Labour Code No. 10/2012/QH13 passed by the National Assembly of Vietnam on 18 June 2012 ("**Labour Code**");
- (c) Civil Proceedings Code No. 92/2015/QH13 passed by the National Assembly of Vietnam on 25 November 2015 ("**Civil Proceedings Code**");
- (d) Law on Vietnamese Guest Workers No. 72/2006/QH11 passed by the National Assembly of Vietnam on 29 November 2006 ("**Law on Vietnamese Guest Workers**");
- (e) Law on Health Insurance passed by the National Assembly of Vietnam on 14 November 2008, as amended and supplemented by Law No. 46/2014/QH13 on amending to the Law on Health Insurance passed by the National Assembly of Vietnam on 13 June 2014 ("**Law on HI**");
- (f) Law on Social Insurance No. 58/2014/QH13 passed by the National Assembly of Vietnam on 20 November 2014 ("**Law on SI**"); and
- (g) Law on Occupational Safety and Hygiene No. 84/2015/QH13 passed by the National Assembly of Vietnam on 25 June 2015 ("**Law on OSH**").

The specific content of each legal document above regarding the employees' health and safety at the work place are regulated as follows:

(a) Labour Code

The Labour Code which governs all different sectors and industries in Vietnam enacts general regulations on the occupational safety and hygiene ("OSH") at the workplaces and the regime on labour accidents, occupational disease of employees. These general regulations are applicable to all Vietnam-based employers (including international companies based in Vietnam), Vietnamese and foreign employees who are working in Vietnam.



Under the Labour Code,² the employers are required to implement measures to ensure OSH at the workplace, and the employees must comply with them as it follows:

- All types of machinery, equipment and materials with strict requirements for labour safety as detailed by the Vietnamese Government from time to time must be tested and verified prior to being commissioned for use, and must be periodically tested and verified by an organisation conducting technical labour safety testing and verification;
- The employers must provide the employees who work in dangerous or toxic jobs with sufficient personal protective equipment and facilities which meet quality standards as provided by the relevant laws, and the employees must use such equipment and facilities during work in accordance with the regulations of the Ministry of Labour, War Invalids and Social Affairs of Vietnam (“**MOLISA**”);
- The employers must hold training classes on OSH for employees, apprentices and trainees when they are recruited and when work is assigned to them;
- The employers must arrange periodic health checks for the employees once per year or once per each six months;
- The employers are also required to: (i) ensure that the workplaces meet the requirements on spaces, airiness, dust, steam, toxic gas and other harmful factors as prescribed in relevant

technical regulations;² (ii) ensure safe and hygienic working conditions for machines, equipment and workshops as required by the promulgated or applied national technical regulations or standards on OSH at the workplaces; (iii) check and evaluate dangerous and harmful factors at the workplaces in order to put forward measures to avert and minimize dangers and harm and improve working conditions and healthcare for the employees; (iv) examine and maintain machines, equipment, workshops and warehouses on a periodic basis; (v) display signboards of instructions regarding OSH covering the operation of machines, equipment and the workplaces at easy-to-read and visible locations at the workplaces; and (vi) obtain opinion from the organization representing the labour collective at the grassroots level (trade union or labour union) when formulating and implementing plans on activities ensuring OSH.

In addition, the Labour Code also provides obligations for the employers in the event that an employee suffers a labour accident or an occupational disease, as well as the rights and benefit regimes to which the concerned employees are entitled should they suffer labour accidents or occupational diseases. Employers will also require legal solutions to prevent labour accidents and occupational diseases for the employees.

² Chapter IX of the Labour Code



(b) Law on OSH

The provisions of this law are applicable to all Vietnamese employers; all Vietnamese employees (including Vietnamese employees working aboard under contracts³) and foreign employees who are working in Vietnam⁴, and also to all different sectors and industries.⁵ It provides more details about an employer's responsibilities for ensuring OSH for the employees as prescribed in the Labour Code.

More particularly, this law regulates the employers' obligation on contributing compulsory labour accident, occupational disease insurance for the employees who are entitled to participate in compulsory social insurance under the Law on SI (except for Vietnam guest workers who are working under contracts in accordance with the Law on Vietnamese Guest Workers)⁶. Accordingly, up to the date of this guideline, Vietnamese employees who work under the labour contracts with a total term of 03 months or more are subject to social insurance contribution.

Thus, when a Vietnamese employee working in Vietnam whose compulsory labour accident, occupational disease insurance has been contributed is injured or becomes ill or even dies during the course of his or her employment, all related costs such as payment for being unable to work, retraining and even lump sum amounts for permanent impairments or death, are paid by the Social Insurance Fund of Vietnam.

Apart from such subsidies provided by the Social Insurance Fund of Vietnam (if applicable), the employers are still obliged to pay a compensation package as prescribed by laws to the concerned employees.

Otherwise, if the employers fail to contribute their compulsory labour accident, occupational disease insurance for the employees (if applicable), they shall be obliged to pay the concerned employees the amounts of subsidies that should have been paid by the Social Insurance Fund of Vietnam. In this case, the compensation will also remain as obligatory.

(c) Law on HI

Under this law, the contribution of health insurance ("HI") is an obligation of both the employers and all the Vietnamese and foreign employees working in Vietnam under the labour contracts with a term of a full 03 months or more.⁷ With HI contribution, the employees will be entitled to medical treatment expenses and the cost for rehabilitation (partly or wholly depending on certain situations), including cases of suffering labour accidents and occupational diseases.

³ Article 2.4 of the Law on OSH

⁴ Article 2.4 of the Law on OSH

⁵ Article 2 of the Law on OSH

⁶ Article 43.1 of the Law on OSH

⁷ Article 12.1(a) of the Law on HI



(d) Law on Vietnamese Guest Workers

The Vietnamese employer as a contractor, enterprise or organisation/individual conducting overseas investment which directly deposes Vietnamese employees to work abroad⁸ shall be obliged to ensure the employees' health and safety at the workplaces as follows:⁹

- (i) To ensure the labour conditions, living conditions and SI according to the legal provisions of the country in which the employees are relocated to work and the laws of Vietnam;
- (ii) To ensure the employees' entitlement to periodic health check and medical examination and treatment in cases where employees suffer sickness or accidents;
- (iii) To organise and to bear the costs for sending the employees back to Vietnam in cases that employees are no longer capable of working abroad;
- (iv) To organise sending the remains or body of employees who die when working abroad period in Vietnam and bear all related costs; and
- (v) To perform other compensation, subsidies regimes according to the legal provisions of the country in which the employees are working and the laws of Vietnam.

(e) Civil Proceedings Code

Disputes between an employer and an employee regarding occupational safety and health regime is a kind of individual labour dispute to be settled by a competent court of Vietnam after having gone through mediation through labour mediators.¹⁰ In accordance with Article 73.1 of the Law on Vietnamese Guest Workers,

disputes between employees and enterprises deputing employees working abroad shall be settled on the basis of contracts signed between the parties and the provisions of Vietnamese laws.

(f) Criminal Code

Article 227 of the Criminal Code 1999 and Article 295 of the Criminal Code 2015 provides a crime of an offender for the act of violating regulations on OSH. Accordingly, depending on the seriousness of damage, the offender will be subject to the respective penalty i.e. fine or non-custodial reform or imprisonment.

However, enterprises or organizations are not under the governing scope of the Criminal Code 1999, hence they cannot be offenders of such a crime. On the contrary, individuals who are legal representatives, managers or other authorised persons to be responsible for OSH in the enterprises or organizations may be the offender only.

Nonetheless, to a certain extent, as the employers, the enterprises or organizations may become involved in such criminal proceedings as a civil defendant or an obligation-related party.

More critically, the primary basis for criminal jurisdiction is territorial and that the Criminal Code of Vietnam particularly may be applied to an offence committed outside of Vietnam in specific cases and also subject to criminal legislation of countries where the offence occurred.

⁸ Article 3.1 of the Law on Vietnamese Guest Workers

⁹ Articles 30, 33 of the Law on Vietnamese Guest Workers

¹⁰ Article 201 of the Labour Code and Article 32 of the Civil Proceedings Code





3

THE OUTBOUND PERSPECTIVE: VIETNAMESE EMPLOYEES ASSIGNED OVERSEAS

EMPLOYER'S RESPONSIBILITIES, LIABILITIES AND WHEN EMPLOYEES ARE ASSIGNED ABROAD BY VIETNAM- BASED COMPANIES.

General responsibilities of employers to ensure due diligence through reasonable measures of compliance, intended to prevent employees from any injury that could cause a physical, moral and financial damage.

When assigning Vietnamese employees to work abroad under permitted cases by law, all Vietnam-based companies (including both domestic and foreign invested companies) must be aware of the responsibilities, liabilities and compensation as mentioned in the summary note of the Law on Vietnamese Guest Workers above.

In which, regarding the two obligations of: (i) ensuring the labour conditions, living conditions, SI according to the legal provisions of the host country and the law of Vietnam; and (ii) ensuring the employees' entitlement to periodic health checks, medical examination and treatment in cases where the employee suffers sickness or accidents.

In this situation, the Vietnam-based companies must comply with the regulations on OSH of the host country where the employees are working if the relevant regimes are more favourable for employees than the laws of Vietnam. If not, the employers must ensure that the employees are entitled to the OSH benefit regimes under the laws and regulations of Vietnam as provided in the Law on OSH and relevant legal documents as aforesaid.¹¹

¹¹ Article 67 of the Law on OSH

When it comes to mobile/guest workers, employers are also obliged to:

- Provide personal protective equipment and facilities to the employees, if applicable;
- Pay in-kind allowances to the employees, if applicable;
- Ensure that the period of time in which the employees are exposed to dangerous or harmful factors is within the safety limits as prescribed in equivalent national technical regulation and relevant law provisions;
- Provide health rehabilitation services (if possible)¹². The full payment of social insurance for the Vietnamese guest employees are also a compulsory obligation of the employers

Moreover, regarding safety at the workplace, amongst others, the employers must take into account the following legal obligations:

- Inspecting and controlling dangerous or harmful factors at the workplaces by arranging measures for OSH and healthcare for the employees;

- Carrying out measures for decontamination and sterilization for the employees who work in a contaminated or infected places;¹³
- Having plans of actions against serious safety threats, emergency rescue and periodically organising training exercises as prescribed; providing technical and medical equipment to ensure rescue and first aid when a serious safety threat or a labour accident occurs;¹⁴ and
- Not compelling the employees to continue performing work or to return to the workplaces having an obvious risk of a labour accident or occupational disease or a serious threat to the health or life of the employees.¹⁵

¹² Articles 23, 24 and 25 of the Law on OSH

¹³ Article 18.1 of the Law on OSH

¹⁴ Article 19 of the Law on OSH

¹⁵ Article 140.2 of the Labour Code



4

THE INBOUND PERSPECTIVE: FOREIGN EMPLOYEES WORKING IN VIETNAM

Legal obligations of employers hiring international workers in Vietnam from a health, safety and security perspective

In terms of ensuring safety, health and security for the foreign employees working in Vietnam, it is noted that the foreign employees receive the same protection and treatment as Vietnamese employees, save for a critical exception that the foreign employees are not entitled to allowances of benefit regime of labour accident, occupational disease insurance paid by the Social Insurance Fund of Vietnam since they are not compulsory participants of the

compulsory labour accident, occupational disease insurance under the Law on OSH and Law on SI. As a result, if a foreign employee suffers a labour accident or occupational disease, apart from compensation package payable by his/her employer,¹⁶ he/she is not entitled to receive the allowances to be paid by the Social Insurance Fund of Vietnam as the Vietnamese employees. Of note, the foreign employees are still subject to HI contribution; accordingly they are still entitled to a medical treatment regime payable by the Health Insurance Fund of Vietnam in case of suffering labour accidents or occupational diseases.

¹⁶ Article 145.3 of the Labour Code and Article 38.4 of the Law on OSH



CALCULATION OF COMPENSATION FOR EMPLOYEES WORKING IN VIETNAM & OVERSEAS

Compensation taking into account the main elements evaluated to determine the financial compensation that an employer would have to disburse to an employee in order to repair work-related damages.

During the overseas working period, unless legal provisions of the host country provide more favourable benefits for the employees than Vietnamese regulations, if the employees suffer occupational diseases or suffer a labour accidents (causing injury to any part or function of the body or causing death of the employees), the Vietnam-based employers must take the following legal obligations:

The working capacity decrease and the death of the employees, as follows:¹⁷

- (i) For the employees suffering labour accident that is not entirely subject to their fault(s) and the employees suffering occupational disease:
- At least 1.5 months' salary for the employees whose working capacity decrease is between 5% and 10%; and 0.4 month's salary shall be added for each additional 1% working capacity decrease regarding the employees whose working capacity decrease is between 11% and 80%;
 - At least 30 months' salary for the employees whose working capacity decrease is at least 81% or more or for

the employee's relatives if the employee dies due to a labour accident or an occupational disease;

- (ii) For the employees suffering labour accident that is entirely subject to their fault(s), they will be entitled to a benefit of at least 40% of the amount as mentioned above;

In which, monthly salary serving as the basis for the calculation of compensation and benefits for labour accidents and occupational diseases is the average sum of 06 consecutive months' salary before the labour accident or occupational disease. If the employees' working time is less than 06 months, salary serving as the basis for the calculation of compensation, benefit is the average sum of consecutive months before occurrence of a labour accident or occupational disease takes place.¹⁸

¹⁷Article 38 of the Law on OSH

¹⁸Article 6.1 of Circular No. 04/2015/TT-BLĐTBXH of the MOLISA dated 02 February 2015 guidance on compensation, benefits and medical expenses paid to employees who suffer labour accidents and occupational disease

Besides, if the employers fully fulfil the contribution obligation of SI for its Vietnamese employees assigned overseas, in case the employees die due to a labour accident or an occupational disease, their relatives, persons who take charge of the employees' funeral may be also entitled to allowance paid by the Social Insurance Fund of Vietnam under the death allowance regime.¹⁹ In addition, although Vietnamese employees assigned overseas who take sick leave for the first treatment due to a labour accident or occupational disease are not beneficiaries of sickness regime of the SI allowance regime, but if the employees have treatment of injury or disease recurred due to a labour accident or an occupational disease and must take sick leave with certification from a competent medical facility as regulated by the Ministry of Health, they may be still entitled to sickness regime as paid by the Social Insurance Fund of Vietnam.²⁰

Thus, the employer will proceed as it follows:

- (i) To recommend the employees for medical assessment of decreased work capacity, treatment, convalescence and health rehabilitation;²¹
- (ii) To assign work appropriate to the employees' health according to the conclusion of medical examination council after treatment and health rehabilitation if the employees keep working;²² and
- (iii) To file a claim for the insurance benefits for the concerned employees from the Social Insurance Fund of Vietnam.²³

How employers ensure that employees are comprehensively compensated to guarantee that employees can go back to the status quo previous to the accident.

Under Vietnamese law, in case Vietnamese guest employees suffer labour accidents or occupational diseases, the employers must ensure their obligations to compensate the employees. Such compensation package is to compensate and support the concerned employees who have decreased labour capacity and cannot guarantee that the employees will move back to their positions prior to the accidents or diseases.

¹⁹ Articles 66.1(b) and 67.1(c) of the Law on SI

²⁰ Article 3 of Circular No. 59/2015/TT-BLDTBXH of the MOLISA dated 29 December 2015 detailing and guiding the implementation of some articles of the Law on SI on compulsory insurance

²¹ Article 38.6 of the Law on OSH

²² Article 38.8 of the Law on OSH

²³ Article 38.9 of the Law on OSH





PREVENT

NEW STUDY REVEALS BENEFITS OF PREVENTION PROGRAMMES TO THE BOTTOM LINE

Pre-Travel Health Checks & Malaria Prevention Programmes Benefit Businesses & Employees

Companies are increasingly sending employees on global assignments.

- Average investment in an international assignment is US\$311,000 per annum
- Cost of a failed assignment ranges between US\$570,000 to US\$950,000
- Pre-travel health check programmes reduce the occurrence of failed assignments
- Investing in pre-travel health checks results in up to 2.5X cost savings
- Employee malaria prevention programmes could reduce the number of fatal cases by 70%

A new study reveals the benefits of implementing pre-travel health checks and malaria prevention measures for business travellers and international assignees.

Return on Prevention, published by Prevent and commissioned by the International SOS Foundation, analyses the average monetary investment required to relocate an employee for an international assignment and the costs that incur when an assignment fails due to an employee's inability to fulfil the assignment due to poor health.

The study shows how the benefits of implementing a travel health prevention strategy significantly outweigh the operating costs of the programme.

1. A medical check for travellers and international assignees aimed at identifying pre-existing medical issues before assigning employees to a foreign country. This ensures employees are fit for the proposed assignment and its working conditions. It identifies general and work-related health problems before the assignment begins:

- The cost-benefit analysis showed that \$1 invested returns a benefit ranging from \$1.60 (minimum scenario) to \$2.53 (maximum scenario).

2. A malaria prevention programme aimed at employees travelling and working in malaria-risk regions. Employees are given information before departure and receive prophylaxis medication and other technical protection means such as mosquito-nets, insecticide sprays and repellents as well as a malaria curative kit:

- The malaria prevention programme reduced the occurrence of fatal cases by 70%. The benefits also outweigh the costs in the case of this programme: For each \$1 invested, the return was estimated at \$1.32.



6

CASE STUDY OF VIETNAMESE EMPLOYEES POSTED ABROAD

CASE 1: FIRST TRIP TO PAKISTAN

Ms. Han, a 32-year old lawyer working for a law firm in Ho Chi Minh City, was assigned to Karachi, Pakistan. Feeling unfamiliar with the health and security conditions of this location, she accessed the online country guides of her assistance company. There, Han was able to obtain an up-to-date destination summary report which provided her with pre-travel advice on women's safety, cultural issues, required vaccinations, safe hotel booking and road safety.

Being aware of her risks and knowing that she could contact her 24/7 assistance company through her mobile assistance app, anytime while posted abroad; gave Ms. Han the peace of mind she needed to have a smooth trip to Pakistan and return home safely without any interruption.

CASE 2: A THROAT INFECTION IN PARIS

Mr. Tam, a marketing director of a Vietnamese pharmaceutical company, fell ill during his trip to Paris. To relieve his symptoms he took penicillin, but the infection only got more severe. Mr. Tam then called his company's 24/7 medical assistance company to get prompt medical advice from a Vietnamese speaking doctor. After understanding Mr. Tam's delicate condition, the on-call-doctor immediately arranged an appointment with a specialist physician who diagnosed Mr. Tam with a penicillin allergy. Straight away, his assistance company placed him under in-patient care for three days and postponed

his flight. With constant monitoring, Mr. Tam recovered and his assistance company arranged for Mr. Tam's safe repatriation back home.

Access to immediate quality medical care and early intervention through the assistance company ensured that Mr. Tam did not suffer a more severe allergic reaction and consequence.

CASE 3: BRUISED RIBS IN BANGKOK

Ms. Lieu was in Thailand for a one-week business trip. During the trip, she and her colleagues took one day off to go to Pattaya beach. While in a sail-boat she was suddenly hit by a wave which threw her 15 feet away, bruising her ribs and affecting her ability to sit. Acting fast, her colleagues contacted her assistance company, which arranged a commercial flight and evacuated her from Pattaya to Bangkok, for subsequent in-patient hospitalisation at the Christian hospital. After five days of rehabilitating treatment and constant monitoring, her condition improved. Ms. Lieu was able to sit again and board a plane to Soc Trang to continue her treatment at her hometown with her loved ones.

Thanks to the fast response, constant monitoring and guarantee of payment from her assistance company, Ms. Lieu was able to heal and recover the full mobility of her body.

CASE 4: TRAPPED IN MIDDLE OF A POLITICAL UNREST IN TUNISIA

Tran, Lee and Van are expatriates working for a Vietnamese Oil & Gas Company in Tunisia. On 18 December 2010, a political unrest broke into the Arab region, with Tunisia as the epicentre. Tran, Lee and Van were staying at a hotel near the riots. Feeling afraid for their lives, they immediately contacted their medical and security assistance company, which through

its traveller locator system could confirm their specific location and proceed with their evacuation, supported by a security team of experts.

Had their employer not been signed on to the assistance company traveller locator solution, several days would have been lost trying to locate Tran, Lee and Van. An entire team of security experts was also on hand to guide them step-by-step for their evacuation back home safely.

7

RISK MANAGEMENT RECOMMENDATIONS & CONCLUSIONS

Work-related injuries and diseases caused by industrial health conditions at work trigger legal compensation as well as disruption to manufacturing operations.

In order to mitigate these risks, it is advisable that companies do the following:

- Conduct pre-employment health assessments for employment candidates.
- Conduct annual health checks for current staff.
- Conduct a workplace health assessment once per year.
- Seek professional guidance on occupational health related matters.

The legal framework outlined above demonstrates how the Vietnamese labour legislation has substantially evolved to broaden the scope of responsibility for all organisations assigning employees abroad, at an extent where foreign legislation is accepted and applied in case of being more favourable and protective for the employee, in terms of occupational health and compensation. In essence, these regulations place a unique Duty of Care on Vietnamese-based companies, as it promotes a high standard of care beyond the traditional workplace which is relocated wherever the mobile employee is based.

Beyond its legal obligations, employers should ensure adequate health, safety, security and legal protection for their employees whether they are based locally or

on international or remote travel assignments also for the following reasons:

- Prevention, response to, and mitigation of incidents reduces costly interruptions to business activities, improves morale and strengthens productivity.
- The adequate management of risk during an incident may allow for the continuation of activities or the development of new opportunities, which could have otherwise been lost.
- It reduces the potential for criminal liability and reputational damage.
- Meeting these responsibilities can mean a positive return on investment.
- This protection is an important part of corporate social responsibility.



ABOUT US

International SOS **Foundation**

Established in 2011, the International SOS Foundation – Ambassadors for Duty of Care www.internationalsosfoundation.org – has the goal of improving the safety, security, health and welfare of people working abroad or on remote assignments through the study, understanding and mitigation of potential risks. The escalation of globalisation has enabled more individuals to work across borders and in unfamiliar environments; exposure to risks which can impact personal health, security and safety increases along with travel.

The Foundation is a registered charity and was started with a grant from International SOS. It is a fully independent, non-profit organisation.



VIETNAM CHAMBER OF COMMERCE AND INDUSTRY

Vietnam Chamber of Commerce and Industry (VCCI) is a national organization which assembles and represents business community, employers and business associations of all economic sectors in Vietnam. The purpose of VCCI is to protect and assist business enterprises, to contribute to the socio-economic development of the country and to promote economic, commercial and technological co-operations between Vietnam and the rest of the world on the basis of equality and mutual benefit. VCCI is an independent, non-governmental, non-profit organization having the status of a legal entity and operating with financial autonomy.

VCCI represents the Vietnamese business community for the promotion and protection of the lawful, legitimate interests of the business community and employers in Vietnam in domestic and international relations. Over the years, VCCI facilitates forums, dialogues, and meetings between business enterprises, employers and governmental agencies, between business enterprises and the representative of employees and other relevant domestic and foreign organizations for the exchange of information and proposes recommendations of business community on matters relating to business environment. VCCI also organizes activities for the promotion and encouragement to business enterprises on the strict observance of laws, improvement of social accountabilities, good business ethics and culture and sound working relations, protection of environment, and participation in other social activities in line with the Chamber's objectives.



PHUOC & PARTNERS

Phuoc & Partners is a professional law firm in Vietnam, specially provides legal services on consultancy and litigation for businesses. Phuoc & Partners' people include nearly 80 lawyers and supporting staff currently working in three offices located in Ho Chi Minh City (head office), Hanoi (branch) and Da Nang (branch) to timely resolve all legal issues of clients throughout the provinces in Vietnam and even overseas companies in many legal areas.

In the practice of labour and employment, for many consecutive years, Phuoc & Partner is a trusted consulting partner, the leading choice of many corporations, multinational corporations, and large and well-known companies in Vietnam. With the advantage of providing quick directions for a wide range of incidents, as well as professional, effective and thorough counseling, timely supporting even in emergencies, Phuoc & Partner's and its lawyers have been honored as the leading law firm and leading lawyers in Vietnam in the practice of labour and employment for many consecutive years in the rankings of prestigious rating agencies, such as: Legal 500, ALB Legal News, Asia Law Profiles, etc.