

*Philippine Employer's*  
**Duty of Care**



A Legal Perspective and Strategic Guidance  
to organizations in the Philippines to ensure Safety, Health and Security  
of their employees on overseas travel

*in collaboration with*

## FOREWORD

Ensuring workers' safety and security is a paramount concern of the Department of Labor and Employment. With this vital duty in mind, the DOLE has crafted and issued rules and regulations to guarantee the strict observance of general labor and occupational safety and health standards.

The Philippine Congress has also enacted new laws, in addition to existing ones, to provide for the specific needs of the various sectors in the country. Our policy makers continue to review and evaluate these laws, policies, rules and regulations to meet the evolving needs of time brought about by technological changes, innovation in the workplace and of work processes, as well as new work concepts, ideas and practices.

This handbook mirrors the dynamic developments in the broad spectrum of industry, specifically in assuring the care and protection of workers assigned to travel and work within the country, and elsewhere around the world. With mobility becoming the norm in a globalized economy, and with the increasing international cooperations, this guide is an ideal reiteration of the duty of the employers, and the safety checklist that must be observed by the workers.

Thus, delineating the employers' and employees' responsibilities — enabling them to observe the standards, and guiding them to assess the risks — pave the way for a more productive, efficient, decent, safe and dynamic industry. This is a goal that we collectively share with our stakeholders to maintain and continuously improve the standards that guide the Philippine labor and employment industry.

I appreciate the International SOS Foundation for putting between two covers the Philippine Employer's Duty of Care, and hope it serves the Foundation's purpose of spreading the knowledge and raising awareness on health, safety and security of travelling employees.

Mabuhay and God bless!

  
**ROSALINDA DIMAPILIS-BALDOZ**  
Secretary

# INTRODUCTION

The Philippines' labor laws are replete with provisions on compensation and rehabilitation as well as Occupational Safety and Health standards for employees in all places of employment. However, a specific provision for employees who travel either locally or overseas is still a work in progress. This leaves employers without a true guide and baseline on which to benchmark their initiatives in this area.

Results of the improving economy, globalization, increases in trade and the continuous foreign investment in the Philippines have seen a growth in the number of international business travellers and Filipino international assignees. Hence, there is a need for a guidance document to help employers in their understanding and undertaking of Duty of Care that extends to all work-related travel.

The Philippine Employer's Duty of Care publication, published by the International SOS Foundation, aims to provide strategic guidance and legal references for organizations in the Philippines to ensure the safety, health and security of their employees while travelling to places considered an extension of their workplace.

In collaboration with Picazo Buyco Tan Fider and Santos Law Offices, and with the support of the Department of Labor and Employment, this publication summarizes the current laws in the Philippines in relation to occupational safety and health, as well as proposes a guide for risk management for employees on international assignments.

The International SOS Foundation summarizes the Duty of Care responsibility of employers for travelling employees and put together a competency checklist that can be used as a guide for organizations in their Duty of Care endeavours.

With a better understanding of their Duty of Care responsibilities, organizations in the Philippines are expected to be adequately guided in planning for the health, safety and security of their employees at work and while outside their physical office environment while also protecting the employer against labor claims for failure to comply with acceptable business practices by ensuring that all possible measures have been taken to ensure that Duty of Care has been provided.

# ABOUT US

## International SOS Foundation

Established in 2011, the **International SOS Foundation** aims to improve the safety, security, health and welfare of people working abroad or in remote assignments through the study, understanding and mitigation of potential risks.

The Foundation is a registered charity that was started with a grant from International SOS. It is a fully independent, non-profit organisation. The Foundation is currently in the process of setting up an experienced, independent governing Board of Trustees to steer its vision, objectives and future results.

## Department of Labor and Employment (DOLE)

The **Department of Labor and Employment (DOLE)** is the national government agency of the Republic of the Philippines that is mandated to formulate policies, implement programs and serve as the policy-coordinating arm of the Executive Branch in the field of labor and employment.

It serves more than 40 million workers comprising the country's labor force, covering those in the formal and informal economies, both private and public.

On top of this, the DOLE clients also include workers' organizations, employers and/or employers' groups, non-government organizations (NGOs), and other government agencies, the academe, other stakeholders, international organizations (e.g., ILO, IOM, UNDP, UNICEF), and the international community including the host countries of Overseas Filipino Workers.

## Picazo Buyco Tan Fider & Santos Law Offices

**Picazo Buyco Tan Fider & Santos** is an established firm with a leading banking and capital market practice. It is also recognized for its strong corporate and M&A practice.

In employment and labor relations, Picazo Law acts for both management and employees and handles industrial disputes and collective bargaining agreements.

# TABLE OF CONTENTS

Philippine Employer's Duty of Care on Workplace Safety, Health & Security When Employees Travel	6
Risk Management Guidelines	13
Duty of Care Responsibility Summary	19
Competency Checklist	20
Useful Links	21
Acknowledgement	22



# PHILIPPINE EMPLOYER'S DUTY OF CARE ON WORKPLACE SAFETY, HEALTH & SECURITY WHEN EMPLOYEES TRAVEL

Legal Overview  
of Philippine  
Employer's Duty Of  
Care For Employees  
Who Travel Overseas  
For Work

With the advent of Asean Integration and the opening of the Philippine labor market to expatriates of multinational companies who have set up offices and businesses in the Philippines, coupled with the increase in the demand for highly competent Filipino employees worldwide, more attention has been called to the employer's duty to provide for the safety and care of travelling employees.

The geographical make up of the country which is composed of more than 7,000 islands adds to this pressing need for an effective and efficient health and safety care program that could meet and address the employer's duty to provide care for its employees.

This document seeks to provide a brief overview of the Employer's Duty of Care under Philippine laws. The Philippines is primarily a civil law country, thus the employer's Duty of Care is governed primarily by written legislation. The principal legislation on the matter is the Labor Code of the Philippines, as amended.

Book IV of this code deals with Health, Safety and Social Welfare Benefits. Other related statutes such as the Social Security Act provides for employees compensation in case of work-related sickness or injury and retirement benefits for retiring employees.



## Health, Safety and Welfare Benefits (Book IV of the Labor Code of the Philippines)

The primary focus of this book is the obligation of the employers to provide for the medical, dental and occupational safety requirement of its employees. Among others, these duties of the employer include the following:

- A. The duty to provide immediate first aid treatment, including a provision for trained first aiders, and availability of first aid equipment and supplies.
- B. The duty to provide emergency medical and dental services includes the duty to employ or engage the services of nurses and physicians, and the setting up of a first aid clinic within the premises, depending on the number of employees in the workplace. However, the duty is deemed complied with if the employer has an existing arrangement with a nearby hospital or clinic for the immediate provision of medical and dental services to the employees. Philippine courts have ruled that the personnel rendering the medical services need not be employed by the employer as the services could legitimately be outsourced.
- C. The duty to adopt and implement a comprehensive occupational health program for the benefit of the employees.
- D. The duty to abide with the occupational health and safety standards set by the Secretary of Labor and Employment through appropriate rules and regulations.



The Secretary of Labor and Employment is tasked to implement and enforce the occupational safety and health laws and regulations and standards in all establishments and workplaces wherever they may be located. In the exercise of this power, the Secretary of Labor and Employment has come up with regulations concerning, among others:

- a. A list of hazardous work place substances
- b. Training and formation of health and safety committees
- c. Training of first aiders
- d. Implementation of health and safety programs
- e. Keeping of health and safety records



Book IV covers all employers, whether operating for profit or not, including the government and any of its political subdivisions and government-owned or controlled corporations which employs in the workplace one or more workers.



## Who are covered by the Duty of Care



## The Duty of Care in relation to Travelling Employees

The Code speaks of implementation and enforcement of occupational safety and health regulations and standards in all establishments and workplaces wherever they may be located.

The place of coverage is significant in relation to travelling employees since workplace is understood to be not just a fixed location but all “places of employment.”

## Work-Related Sickness and Injury

The Social Security Act, which is a related legislation, provides for a system of compensation for employees who have suffered work-related injury or illness.

A fund supported by premium contributions made by the employer and the employees is the established source of compensation.

To be compensable, however, an injury or illness “must arise out of, and in the course of, employment.” The Social Security System also provides for other benefits such as retirement and death benefits to its members.



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## CONCLUSION

The fast-growing economy of the Philippines equates to more and more employees working in different places, whether in the Philippines or outside of the country.

Mobile employees require more effective and efficient care programs that would immediately address their health, safety and security needs.

Employers have to adjust to these new demands since Duty of Care is not confined to a fixed or definite workplace, but goes along with the travelling employee.

*The legal information in this paper has been prepared by Picazo Buyco Tan Fider and Santos Law Offices.*

*This short article only provides a brief summary of the state of law relating to workplace safety and health regulations in the Philippines.*

*This article is not legal advice and cannot be viewed as a substitute to obtaining proper legal or other professional advice.*



**GUIDE TO  
RISK MANAGEMENT  
FOR EMPLOYEES  
ASSIGNED TO TRAVEL  
AND WORK OUTSIDE OF  
THEIR HOME COUNTRY**

The compensation criteria for work-related accidents have expanded the definition of the workplace to include places which, during the course of employment, the worker frequents.

A specific provision for employees who travel either locally or abroad is still a work in progress. The foregoing is meant to assist both the employer and the employees in the undertaking of Duty of Care.

These guidelines are to be applied to all work-related travel and off-site visits carried out by private sector employees. Categories of travel include, but are not limited to, recruitment visits, attendance at conferences, business meetings, research and teaching overseas. It applies to all employees at all levels within the organization. The aim of the policy is to consider the health and safety implications of work-related travel and to put into place procedures to reduce the potential hazards to an acceptable level.



## Responsibilities

The Philippine labor law focuses on “protecting every working man and woman against the dangers of injury, sickness or death through safe, healthy and secure working conditions.”

It is the responsibility of employer and employees to look after their health and safety when on official travel to local and international travel assignments.



### Employees are responsible for:

- Taking care of their own health and safety while undertaking off-site visits and not compromising the safety of colleagues they may be travelling with.
- Utilizing the systems in place for managing such visits within their offices.
- Providing feedback mechanisms for any concerns to the host company at an appropriate point either during or after the visit.
- Adherence to the health and safety protocols such as prophylaxis, immunization and quarantine of the country to be visited.
- Familiarizing themselves with security briefings and advisories provided by the company and follow these guidelines.

### The Employer is responsible for:

- Ensuring that employees who undertake travel as part of their work are healthy, suitably trained and experienced to do so, selecting a suitable travel agent, taking into account health and safety considerations such as the availability of a 24-hour helpline, having passenger tracking information, and facilitating health and safety checks.
- Provision for open communication to receive updates from travel insurance providers and travel agencies.
- Establishing the risk assessment of the locale to be visited and communicating these to travelling employees.
- Facilitating the health and safety precautions needed such as prophylaxis, immunization and possible security risks.
- Giving employees sufficient information on which to base sound security-related decisions.
- Taking suitable action to manage incidents which may arise during the course of travel.
- Conducting pre-departure orientation on the culture and norms of the country of destination.

## Minimum Standards for Overseas Travel

In order to achieve consistency in the risk assessment process the following standards have been set down:

- Flights and accommodation should, whenever possible, be arranged through the company-approved travel agency.
- All employees who regularly travel overseas as part of their duties should be issued with 'contact cards' by their employer. These will include personal details, key contacts and the emergency response numbers.
- It should be standard practice for the company to grant a recovery day following return from an extended period of overseas travel, especially after long-haul flights.
- Standards of accommodation may vary from country to country. It is expected that employees will stay in an accommodation which does not present any health and safety concerns.
- The risk assessment should detail extra requirements which may be necessary from the hotel.
- A method for communication must always be available to employees while abroad.

## Individual Risk Assessment for Overseas Travel

- Employees should be advised to seek the advice of the company physician prior to travel, to obtain the necessary vaccinations through their physician or travel clinic. All costs will be shouldered by the company.
- Any employee who is required to travel on any work-related matter should not do so if their physician has advised against this.
- An Occupational Health referral may be appropriate for employees who have specific health needs to make the necessary recommendations regarding travel arrangements which need to be put in place for the employee.







## Risk Assessments

Travelling employees, local or international, are equally exposed to travel health and security risks with varying levels of medical and security facilities. It is important that assessment of travel risks is done prior to sending an employee to work outside the normal office facilities.

### Risk Category: One (Low-Risk)

These are trips which do not require that a specific risk assessment be conducted. Such visits would include attendance at short conferences in known safe countries. There should be no significant additional risks associated with the visit.

### The health and safety protocol for such visits should be as follows:

- The employer must establish a system for the approval of travel. An itinerary is then provided for the overseas trip with the inclusive dates properly recorded.
- The employer must have the current home emergency contacts of the employee as well as essential contact information such as accommodation details, in-country contacts, overseas and mobile phone details.
- Accommodation should be booked through a reputable company-approved agent. Due consideration should be given to the location of the accommodation and safe travel to the event.
- For overseas visits, the participant must be authorized for coverage under the travel insurance provisions and have an emergency contact card which he should carry with him at all times.

## Risk Category: Two (Medium or High-Risk)

Higher risk travel arrangements must be supported with a written risk assessment of the destination. It is possible for one basic risk assessment to cover a number of trips to the same destination.

This includes travel to areas where the security or health advice states that there is a high risk for safety and terrorism or if there are endemic or emerging diseases in the country to be visited.

Whenever possible, travel to these countries must be put in abeyance until such time that the situation has stabilized. However, when there is an exigency to do so, the following are recommended prior to the approval of travel.

- A thorough risk assessment must be conducted prior to approval for travel to a high-risk area. Any significant residual risks should be clearly flagged to the employer. The employer must weigh the options whether to approve the travel or not. The employer may also seek additional advice from the Safety and Health Office.
- A reporting in procedure, commensurate with the risks associated with the travel, should be included as part of the risk assessment. A detailed report should be made outlining the risks associated with the travel destination.



# Duty of Care

The responsibility of Duty of Care for people traveling away from home

## WHO?

People working away from home can be from a variety of backgrounds. They may be:

EXECUTIVES  
BUSINESS TRAVELERS  
SEAFARERS  
GOVERNMENT OFFICIALS

CONSTRUCTION WORKERS  
MINERS  
TECHNICIANS  
ENGINEERS

SERVICE AND SALES PEOPLE  
RESEARCHERS  
TEACHERS  
MISSIONARIES

They may be long or short-term employees, volunteers, aid workers, contractors, or family members.

The person may be traveling on a short or a long trip to one or multiple countries, or even within their own country. They may even have an expatriate assignment or posting.

In all cases the person is an employee sent elsewhere by their employer for work.

## WHERE?

The person may go to locations ranging from relatively safe to high-risk. Note that a relatively safe destination can rapidly degenerate into a high-risk destination due to health, safety, security, political or social reasons, or natural disasters.

## WHY?

Mobility is increasing due to globalization, new markets and the need for services. Employers therefore should ensure adequate health, safety, security and legal protection for their employees on international or remote travel assignments 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.
- Meeting these responsibilities can mean a positive return on investment.
- This protection is an important part of corporate social responsibility.
- It is important to ensure that protection typically required domestically under national occupational safety and health legislation is offered to those working abroad, in order to comply to legal legislation & avoid litigation costs.

## HOW?

An initial step is for a company or organization to create and agree upon important competencies for protecting the health, safety, security and legal status of international or remote assignees and travelers. Ownership and implementation of these competencies is a core executive responsibility.



Companies and organizations that successfully manage their responsibilities to care for international travelers and assignees have put into place the following competencies:

Development of Policies & Procedures	Strategic planning: Risk Assessment	Communicating, Educating & Training their employees	Maintaining contact
<p>Be up-to-date on national occupational health and safety requirements (the legal framework) where the individual will be assigned.</p> <p>Through a corporate travel security policy, take an integrated approach to manage incidents involving departments such as security, travel, legal, health, human resources, and social services.</p> <p>Develop contingencies in case travelers and workers need to be protected, moved or evacuated from their assigned living/working environment.</p>	<p>Identify and assess the risks, the tools for mitigation, responsibilities for action and means for evaluating measures taken.</p> <p>Determine the individual's medical, psychological and social fitness for travel or assignment.</p> <p>Perform and maintain a dynamic risk assessment (that is continually reviewed) by a competent person or organization.</p>	<p>Raise the individual's awareness about the cultural, social and legal norms at the destination.</p> <p>Provide training for the individual with a view towards preventing an incident as well as protection from, response to and mitigation of a potential incident.</p> <p>The competency to assure the health, safety and security of the individual on assignment or while traveling for emergency issues as well as preventative, routine advice.</p>	<p>Locate and communicate with the individual during an emergency, as well as to provide up-to-date information on local health, medical, security, social and legal issues.</p> <p>Locally manage employees or others during incidents or crisis.</p> <p>Maintain a system to document that international assignees and travelers know and understand daily health, safety, security and legal issues as well as emergency procedures.</p>

In certain locations, which should be flagged by the risk assessment, travelers or assignees may also need:

<p>A system for the traveler to have secured (safe) copies of essential travel documents, medical information, emergency contact information, and insurance contact information.</p>	<p>A fit-to-travel medical evaluation.</p> <p>Periodic health checks and up-to-date vaccinations.</p> <p>A continuously updated written travel plan.</p>	<p>A list of transportation and hotel facilities based on safety, health and security criteria.</p> <p>An emergency medical kit and first aid training to address general situations as well as situations the individual may face during travel and assignment.</p>	<p>A 24-hour point-of-contact for relevant up-to-date information and access to medical and security professionals for advice, support and risk mitigation.</p>
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## **USEFUL LINKS**

### **International SOS Foundation**

<http://www.internationalsosfoundation.org>

### **International SOS Foundation White Papers**

<http://www.internationalsosfoundation.org/resources/white-papers/>

### **Bureau of Working Conditions**

<http://www.bwc.dole.gov.ph>

### **Department of Labor and Employment**

[http:// www.dole.gov.ph](http://www.dole.gov.ph)

### **Picazo Buyco Tan Fider and Santos Law Offices**

<http://www.picazolaw.com/>

## **ACKNOWLEDGEMENT**

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