



Construction Industries Federation of Namibia

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PUBLIC HOLIDAYS DURING THE 2011 / 2012 RECESS: CALCULATION OF ANNUAL LEAVE / LEAVE PAY

The Namibian labour legislation does not officially make provision for so-called "Builders' Holidays". However, the **Labour Act, 2007 (Act No.11 of 2007)** does make provision in **Chapter 3, Part D, Clause 23** that the employer determines the date when leave is granted. The annual recess over the Christmas / New Year period is regarded as a custom / tradition in the construction industry. The following examples shown below serve as a GUIDELINE for granting employees' annual leave during the recess period over Christmas / New Year.

1. In terms of the provisions of **Chapter 3, Part C, Clause 22 of the Labour Act, 2007**, all public holidays falling on a day that would otherwise be an ordinary working day for the employees concerned are deemed paid public holidays. Employees shall not be required to work on such a day, but shall receive normal remuneration for the day, nonetheless. Employees who do work are entitled to double remuneration for the actual hours worked on such public holiday.
2. In terms of **Chapter 3, Part D, Clause 23** of the Act an employee shall be granted **at least 4 (four) consecutive weeks' leave** of absence on full remuneration in respect of each period of 12 consecutive months of employment (this translates into 20 working days annual leave for an employee working a 5-day week and 24 working days annual leave for an employee working a 6-day week). The annual leave of employees shall, for each public holiday which falls on a day that would otherwise have been an ordinary working day for such employees and falls within the leave period, be extended by one working day with full remuneration.
3. Public holidays in the 2011 / 2012 festive season are:

Saturday	10 December 2011	(International Human Rights Day)
Sunday	25 December 2011	(Christmas Day)
Monday	26 December 2011	(Family Day)
Sunday	1 January 2012	(New Year's Day)
Monday	2 January 2012	(New Year's Day – day in lieu)

It follows by illustration that:

CLOSING (last day of work) on **09 December 2011** (5 or 6-day week)
OPEN (first day of work) on **09 January 2012**, employees are entitled to the following **leave pay**:

5-DAY WEEK: 18 working days + 2 days (public holidays) ► **20 days leave pay**

6-DAY WEEK: 22 working days + 3 days (public holidays) ► **25 days leave pay**

OR

CLOSING (last day of work) on **16 December 2011** (5-day week) or on **17 December 2011** (6-day week)
OPEN (first day of work), on **16 January 2012** employees are entitled to the following **leave pay**:

5-DAY WEEK: 18 working days + 2 days (public holidays) ► **20 days leave pay**

6-DAY WEEK: 22 working days + 2 days (public holidays) ► **24 days leave pay**

NOTES:

- Only the working days illustrated in both examples above may be deducted from the employee's accrued annual leave and **not** the listed extra/additional days.
- Any leave days of the employee's accrued annual leave not used for the recess period as shown above may be used as casual leave days in the next year.
- In terms of Government Gazette **No. 4271 of 1 June 2009** (CIF / MANWU agreement on employment conditions in the construction industry) a service allowance equal to 120 hours of an employee's wage calculated pro-rata to the portion of the year that the employee was in service is payable as part of the December remuneration, except in case of a fair dismissal.