

ENQUERY: A worker is employed on a Fixed Term Employment (FTE) basis for 8 months. Is the worker eligible for leaves under the Factories Act, 1948?

RESPONSE: A worker employed on a Fixed Term Employment (FTE) basis for 8 months is eligible for leaves under the Factories Act, 1948, but the specific entitlements depend on their length of service and the company's leave policy. Here's a detailed analysis based on Section 79 of the Act:

1. Eligibility for Leave Based on Section 79 (1)

Annual Leave with Wages Provisions (FTE):

A worker must have worked 240 days or more in a calendar year to be entitled to annual leave with wages during the subsequent year.

- For adults: Leave is accrued at the rate of 1 day for every 20 days of work.
- For children: Leave is accrued at the rate of 1 day for every 15 days of work.

Application to Fixed Term Employment (FTE):

If the worker's FTE duration spans less than a calendar year (e.g., 8 months in this case), their eligibility for leave as per Section 79 (1) is assessed on whether they complete 240 days of work during their term. If the worker satisfies this condition, they would qualify for leave as per the Act's accrual rates.

2. Special Provisions for FTE Workers (Section 79 (3))

If a worker does not complete the full calendar year but is discharged, dismissed, resigns, or their term ends during the year:

- They are entitled to wages in lieu of the quantum of leave accrued up to their last working day.
- The entitlement is calculated **pro-rata** based on the leave rates specified in Section 79 (1):
 - For adults: 1 day of leave for every 20 days of work.
 - For children: 1 day of leave for every 15 days of work.

This provision ensures workers engaged for less than a calendar year are compensated fairly for their accrued leave.

3. Company Leave Policies for FTE Workers

Many companies adopt practices that align with or exceed the requirements of the Factories Act to support workers under FTE. Common policies include:

1. **Monthly Leave Credit:** Workers are credited with **1.5 days of leave per month** (on working for 26 days) on completing each month of service.
2. **Quarterly Leave Credit:** Workers are credited with **4 days of leave for every quarter**, provided they have worked all scheduled days in that quarter (including paid leave days).

These methods ensure:

- Workers can avail themselves of leave with wages during their FTE term.

- Workers are not required to wait until the end of their term or the subsequent year to utilize their leave.

4. Practical Implications

For an 8-Month FTE Worker:

- If the worker completes 240 days of service, they are entitled to leave calculated at the rate specified in Section 79 (1).
- If the worker does not meet the 240-day threshold or their term ends before completing a calendar year, they are entitled to wages in lieu of accrued leave per Section 79 (3).

Employer Best Practices:

- Providing leave in advance (monthly or quarterly) fosters worker satisfaction and ensures compliance.
- Implementing a policy exceeding the statutory minimum reflects a commitment to worker welfare and enhances goodwill.

5. Conclusion

An FTE worker employed for 8 months is eligible for leave under Section 79 of the Factories Act, 1948, either in the form of leave with wages if they meet the 240-day criterion or pro-rata wages in lieu of leave if their term ends earlier. Employers may use leave crediting practices (monthly or quarterly) to align with or surpass statutory requirements, benefiting both the worker and the organization.

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