3.   **Application off-shore**

(1)   Subject to subsections (5) and (6) where any industry is carried on —

    (a)   partly within the State and partly within an area to which this subsection applies; or

    (b)   wholly or partly in an area to which this subsection applies, and —

        (i)   facilities for servicing or supporting that industry are maintained in the State by or on behalf of the employer concerned;

        (ii)   the employer concerned is connected with the State;

        (iii)   that industry is carried on from, or on, or by means of, an aircraft, ship, or vessel certificated, registered, or licensed under a law of the State or by a public authority, or which is required to be so certificated, registered, or licensed;

        (iv)   that industry is carried on from, or on, or by means of, a rig or other structure, installation, or equipment, the use or function of which is regulated by the State or by the State and the Commonwealth, or is required to be so regulated;

        (v)   that industry is authorised or regulated by the State or by the State and the Commonwealth; or

        (vi)   that industry is carried on pursuant to a law of the State,

then this Act applies to and in relation to that industry in so far as any employment relates to the area to which this subsection applies and in any such case this Act also applies to and in relation to any industrial matter or industrial action related thereto, and any jurisdiction, function, duty, or power exercisable, imposed, or conferred by or under this Act extends thereto.

(2)   An employer shall, for the purposes of subsection (1), be connected with the State if that employer —

    (a)   is domiciled in the State;

    (b)   is resident in the State, normally or temporarily;

    (c)   being a body corporate, is —

        (i)   registered, incorporated, or established under a law of the State;

        (ii)   taken to be registered in the State; or

        (iii)   a related body corporate of such a body for the purposes of the *Corporations Act 2001* of the Commonwealth;

    (d)   in connection with the industry concerned, has an office or a place of business in the State; or

    (e)   is the holder of a licence, lease, tenement, permit, or other authority, granted under a law of the State or by a public authority under or by virtue of which the industry is carried on.

(3)   The areas to which subsection (1) applies are —

    (a)   that area situate west of 129° of east longitude reckoning from the meridian of Greenwich, that is part of the areas known as and comprised within —

       (i)   the Australian fishing zone as defined by the Commonwealth *Fisheries Act 1952* [2]; or

      (ii)   the continental shelf, within the meaning of the Convention on the Continental Shelf a copy of which in the English language is set out in Schedule 1 to the Commonwealth *Petroleum (Submerged Lands) Act 1967*;

   (b)   any other area seaward of the State to which from time to time the laws of the State apply or, by a law of the Commonwealth, are applied.

(4)   For the purposes of any proceedings under this Act an averment in the application or process —

   (a)   that an employer was, pursuant to subsection (2), at a specified time or during a specified period or at all material times connected with the State; or

   (b)   that any conduct, event, circumstance, or matter occurred, or that any place is situate, within an area referred to in subsection (3),

shall, in the absence of proof to the contrary, be deemed to be proved.

(5)   Subsections (1), (2), and (3) shall not be construed as applying this Act to or in relation to any person, circumstance, thing, or place by reason only of the operation of paragraph (c) of the interpretation of the term "industry" set out in section 7(1) unless this Act would also apply by reason of the operation of subsection (1).

(6)   Effect shall be given to subsections (1), (2), and (3) only where this Act or any provision of this Act would not otherwise apply as a law of the State, or be applied as a law of the Commonwealth, to or in relation to any person, circumstance, thing, or place.

[Section 3 amended by No. 10 of 1982 s. 28; No. 10 of 2001 s. 111.]