

BREAD (AMENDMENT) BILL 1985

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to enable regulations to be made fixing the starting and ceasing times for bakehouses and bread deliveries;
 - (b) to enable regulations to be made providing that work performed in bakehouses and on bread deliveries on Saturdays, Sundays and public holidays is to be paid for on the basis that it is performed outside ordinary hours; and
 - (c) to introduce a system of special licences for bread manufacturers, who will be authorised to make and bake bread on the premises to which the licence relates, without restrictions as to time.
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Clause 1 sets out the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act. The provisions relating to hours of baking bread will commence on a day to be appointed by the Governor-in-Council. The provisions relating to special licences will commence on the same or a later proclaimed day.

Clause 3 sets out the Schedules to the proposed Act.

Clause 4 is a formal provision that gives effect to Schedules 1-3 (amendments).

Clause 5 is a formal provision that gives effect to Schedule 4 (transitional provisions).

Schedule 1 (1) inserts a definition used in the amended sections 6 and 8, and omits a subsection that becomes obsolete.

Schedule 1 (2) and (4) insert provisions empowering regulations to be made for the purposes mentioned in paragraphs (a) and (b) above.

Schedule 1 (7) permits regulations to be made that provide that they operate to the exclusion of awards and industrial agreements.

Schedule 1 (3), (5), (6) and (8) make consequential amendments.

Schedule 2 (1) inserts definitions used in various amended provisions of the Principal Act.

Schedule 2 (2) and (3) provide that premises that are the subject of special licences are not regulated as to starting and ceasing times for the making or baking of bread.

Schedule 2 (4) inserts provisions for special licences. Bread manufacturers' licences as presently provided for by the Principal Act will become general licences. Special licences will be subject to such special conditions as may be prescribed by the regulations.

Schedule 2 (5) and (6) make ancillary or consequential amendments.

Schedule 3 (1) omits the arrangement section of the Principal Act. This will be replaced by a more detailed table of provisions.

Schedule 3 (2) and (3) amend references that are out-of-date.

Schedule 3 (4) inserts a common provision authorising regulations to be made having differential application and conferring a limited power to permit matters to be determined under the regulations.

Schedule 4 contains transitional provisions. Existing licences will be treated as general licences. If the holder of a general licence applies within 28 days after the commencement of the licensing amendments for a special licence, the applicant may trade as if the general licence were a special licence, pending determination of the application.

BREAD (AMENDMENT) BILL 1985

No. , 1985

A BILL FOR

An Act to amend the Bread Act 1969 with respect to the times for making, baking and delivering bread, the licensing of bread manufacturers, and in certain other respects.

Bread (Amendment) 1985

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

5 Short title

1. This Act may be cited as the "Bread (Amendment) Act 1985".

Commencement

2. (1) Except as provided by this section, this Act shall commence on the date of assent to this Act.
- 10 (2) Schedule 1, and section 4 in its application to that Schedule, shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.
- (3) Schedule 2, and section 4 in its application to that Schedule, shall commence on such day (not being earlier than the day appointed and
15 notified under subsection (2)) as may be appointed by the Governor and notified by proclamation published in the Gazette.

Schedules

3. This Act contains the following Schedules:

- 20 SCHEDULE 1—AMENDMENTS TO THE BREAD ACT 1969
RELATING TO HOURS OF WORK
- SCHEDULE 2—AMENDMENTS TO THE BREAD ACT 1969
RELATING TO LICENCES
- SCHEDULE 3—MISCELLANEOUS AMENDMENTS TO THE
BREAD ACT 1969
- 25 SCHEDULE 4—TRANSITIONAL PROVISIONS

Amendment of Act No. 54, 1969

4. The Bread Act 1969 is amended in the manner set forth in Schedules 1, 2 and 3.

Transitional provisions

- 30 5. Schedule 4 has effect.
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Bread (Amendment) 1985

SCHEDULE 1

(Sec. 4)

AMENDMENTS TO THE BREAD ACT 1969 RELATING TO HOURS
OF WORK

- 5 (1) (a) Section 5 (1), definition of “public holiday”—
After the definition of “make or bake”, insert:
“public holiday” means a bank or public holiday under the
Banks and Bank Holidays Act 1912.
- (b) Section 5 (2)—
10 Omit the subsection.
- (2) (a) Section 6 (1)–(6)—
Omit the subsections, insert instead:
- (1) The regulations may—
- 15 (a) fix the starting and ceasing times for the making or baking
of bread by employees who are of or above the age of 16
years and are operative bakers or by apprentices; and
- (b) provide that work performed by any such employees or
20 apprentices in the making or baking of bread on Saturdays,
Sundays or public holidays or any specified parts of those
days shall be regarded as having been performed otherwise
than during ordinary hours.
- (2) Where regulations are made pursuant to subsection (1) (b)
in relation to any work that is to be regarded as having been
25 performed otherwise than during ordinary hours, the wages for
that work shall accordingly be payable at such appropriate rate
as is applicable to the work pursuant to the relevant award or
industrial agreement.
- (b) Section 6 (7)—
30 After “by that award or agreement”, insert “or by the
regulations”.
- (3) Section 7 (3)—
Omit the subsection, insert instead:
- (3) In this section—

*Bread (Amendment) 1985*SCHEDULE 1—*continued*AMENDMENTS TO THE BREAD ACT 1969 RELATING TO HOURS
OF WORK—*continued*

“prescribed baking hours”, in relation to a bakehouse, means
the period —

- 5 (a) commencing with the starting time fixed pursuant
to section 6 for the making or baking of bread and
applicable to the bakehouse; and
- (b) ending with the ceasing time so fixed.

(4) Section 8—

Omit the section, insert instead:

Times for delivery of bread by employees

- 10 8. (1) The regulations may—
- (a) fix the starting and ceasing times for the delivery by
employees who are bread carters or bread sellers, by
vehicle or other receptacle, of bread to purchasers; and
- 15 (b) provide that, for the purpose of determining the salary or
wages payable for work performed by any such employees
in the delivery of bread on Saturdays, Sundays or public
holidays or any specified parts of those days, that work
shall be regarded as having been performed otherwise than
during ordinary hours.
- 20 (2) Where regulations are made pursuant to subsection (1) (b)
in relation to any work that is to be regarded as having been
performed otherwise than during ordinary hours, the wages for
that work shall accordingly be payable at such appropriate rate
25 as is applicable to the work pursuant to the relevant award or
industrial agreement.

(5) Section 9 (4)—

Omit the subsection, insert instead:

*Bread (Amendment) 1985*SCHEDULE 1—*continued*AMENDMENTS TO THE BREAD ACT 1969 RELATING TO HOURS
OF WORK—*continued*

5 (4) A bread manufacturer or bread distributor (whether or not that manufacturer or distributor is an employer), or other person employed or engaged for hire or reward in the manufacture or distribution of bread, who delivers bread otherwise than during the period—

(a) commencing with the starting time fixed pursuant to section 8 and applicable to the delivery; and

(b) ending with the ceasing time so fixed,

is guilty of an offence against this Act.

10 (6) (a) Section 10 (2)—

Omit “Nothing”, insert instead “Subject to sections 6, 8 and 10A and any regulations made pursuant to section 10A, nothing”.

(b) Section 10 (2) (b)—

15 Omit “except to the extent of the provisions expressly made by sections 6 and 8,”.

(7) Section 10A—

After section 10, insert:

Provisions relating to regulations

10A. The regulations may—

20 (a) provide that, to the extent specified in the regulations, the provisions of regulations made pursuant to this Part operate to the exclusion of provisions contained in awards or industrial agreements relating to matters dealt with in this Part;

25 (b) provide that, to the extent specified in the regulations, a provision of a regulation made pursuant to this Part shall be deemed to form part of an award or industrial agreement;

*Bread (Amendment) 1985*SCHEDULE 1—*continued*AMENDMENTS TO THE BREAD ACT 1969 RELATING TO HOURS
OF WORK—*continued*

(c) amend any award or industrial agreement by omitting any matter relating to matters dealt with in this Part; or

(d) make such amendments to any award or industrial agreement as are incidental to or consequential on anything in or done under paragraph (a), (b) or (c).

5

(8) Section 11 (4)—

Omit the subsection.

SCHEDULE 2

(Sec. 4)

10 AMENDMENTS TO THE BREAD ACT 1969 RELATING TO LICENCES

(1) (a) Section 4 (1), definition of “general licence”—

After the definition of “certificate”, insert:

“general licence” means a general licence issued under Part III or any renewal of such a licence;

15 (b) Section 4 (1), definition of “special licence”—

After the definition of “shop”, insert:

“special licence” means a special licence issued under Part III or any renewal of such a licence;

(2) Section 6A—

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After section 6, insert:

Premises subject to special licence

6A. Nothing in the regulations made pursuant to section 6 or in any award or industrial agreement regulates the starting or ceasing times for the making or baking of bread in premises to which a special licence relates.

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*Bread (Amendment) 1985*SCHEDULE 2—*continued*AMENDMENTS TO THE BREAD ACT 1969 RELATING TO
LICENCES—*continued*

(3) Section 7 (5)—

After section 7 (4), insert:

(5) Subsection (4) does not apply in relation to a bakehouse to which a special licence relates.

5 (4) Sections 11A–11C—

Before section 12, insert:

Classes of licences

11A. (1) Two classes of bread manufacturers' licences may be issued under this Part, namely—

- 10 (a) general licences;
(b) special licences.

(2) The same premises may not at the one time be the subject of both a general licence and a special licence.

General licences

15 11B. A general licence is a licence authorising a person to carry on in premises to which the licence relates the business of manufacturing, preparing or baking bread for trade or sale.

Special licences

20 11C. A special licence is a licence authorising a person to carry on in premises to which the licence relates the business of manufacturing, preparing or baking bread for trade or sale (to the extent provided for by the licence) and is subject to such special conditions as may be prescribed.

(5) (a) Section 12 (1)—

25 Omit "for trade or sale".

(b) Section 12 (7A)—

After section 12 (7), insert:

*Bread (Amendment) 1985*SCHEDULE 2—*continued*AMENDMENTS TO THE BREAD ACT 1969 RELATING TO
LICENCES—*continued*

(7A) A person, being the holder of a special licence, who contravenes or fails to comply with a special condition is guilty of an offence against this Act.

(c) Section 12 (8) (c)—

5 After “licence”, insert “or (where relevant) any special condition of the licence”.

(d) Section 12 (13)—

After section 12 (12), insert:

10 (13) A reference in this section to a condition does not include a reference to a special condition, except where expressly provided.

(6) Section 14 (1) (b)—

After “condition”, insert “(not being a special condition)”.

SCHEDULE 3

15

(Sec. 4)

MISCELLANEOUS AMENDMENTS TO THE BREAD ACT 1969

(1) Section 2—

Omit the section.

(2) (a) Section 4 (1), definition of “Secretary”—

20 After the definition of “regulations”, insert:

“Secretary” means the Secretary of the Department of Industrial Relations or the person for the time being acting as Secretary of that Department;

(b) Section 4 (1), definition of “Under Secretary”—

25 Omit the definition.

*Bread (Amendment) 1985*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE BREAD ACT 1969—
continued

(3) Sections 11, 12, 13, 14, 21, 28, 30—

Omit “Under Secretary” wherever occurring, insert instead “Secretary”.

5 (4) Section 32 (3)—

Omit the subsection, insert instead:

(3) A provision of a regulation may—

- 10 (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

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SCHEDULE 4

(Sec. 5)

TRANSITIONAL PROVISIONS

Interpretation

20 1. (1) In this Schedule—

“appointed day” means the day appointed and notified under section 2 (3).

(2) Words and expressions used in this Schedule have the same meanings as in the Bread Act 1969.

25 **Existing bread manufacturers’ licences**

2. A licence in force immediately before the appointed day shall be deemed to be a general licence.

Existing applications for bread manufacturers’ licences

*Bread (Amendment) 1985*SCHEDULE 4—*continued*TRANSITIONAL PROVISIONS—*continued*

3. An application for a licence pending immediately before the appointed day shall be deemed to be an application for a general licence, unless the application is made expressly for a special licence.

Applications for, and issue of, special licences

- 5 4. Applications may be made for special licences before the appointed day, and special licences may be issued before that day, as if the whole of this Act commenced on the date of assent to this Act, but such a licence does not take effect before the appointed day.

Applications for special licences by holders of general licences

- 10 5. (1) If, before the end of the period of 28 days commencing on the appointed day, the holder of a general licence applies for a special licence in respect of any premises to which the general licence relates, the general licence shall, in relation to those premises, be deemed to be a special licence until the application is determined by the Secretary.

- 15 (2) If the application is refused, the general licence shall, in relation to those premises, be deemed to be a special licence until—

- (a) where the period provided for the lodging of an appeal against the decision has expired without such an appeal having been lodged—the end of that period; or
20 (b) where an appeal against the decision has been lodged—the appeal lapses or is finally determined.

BREAD (AMENDMENT) ACT 1985 No. 214

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

* * * * *

Act No. 214, 1985

An Act to amend the Bread Act 1969 with respect to the times for making, baking and delivering bread, the licensing of bread manufacturers, and in certain other respects. [Assented to, 11th December, 1985.]

Bread (Amendment) 1985

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the "Bread (Amendment) Act 1985".

Commencement

2. (1) Except as provided by this section, this Act shall commence on the date of assent to this Act.

(2) Schedule 1, and section 4 in its application to that Schedule, shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

(3) Schedule 2, and section 4 in its application to that Schedule, shall commence on such day (not being earlier than the day appointed and notified under subsection (2)) as may be appointed by the Governor and notified by proclamation published in the Gazette.

Schedules

3. This Act contains the following Schedules:

SCHEDULE 1—AMENDMENTS TO THE BREAD ACT 1969
RELATING TO HOURS OF WORK

SCHEDULE 2—AMENDMENTS TO THE BREAD ACT 1969
RELATING TO LICENCES

SCHEDULE 3—MISCELLANEOUS AMENDMENTS TO THE
BREAD ACT 1969

SCHEDULE 4—TRANSITIONAL PROVISIONS

Amendment of Act No. 54, 1969

4. The Bread Act 1969 is amended in the manner set forth in Schedules 1, 2 and 3.

Transitional provisions

5. Schedule 4 has effect.
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Bread (Amendment) 1985

SCHEDULE 1

(Sec. 4)

AMENDMENTS TO THE BREAD ACT 1969 RELATING TO HOURS
OF WORK

- (1) (a) Section 5 (1), definition of "public holiday"—

After the definition of "make or bake", insert:

"public holiday" means a bank or public holiday under the
Banks and Bank Holidays Act 1912.

- (b) Section 5 (2)—

Omit the subsection.

- (2) (a) Section 6 (1)–(6)—

Omit the subsections, insert instead:

- (1) The regulations may—

- (a) fix the starting and ceasing times for the making or baking of bread by employees who are of or above the age of 16 years and are operative bakers or by apprentices; and
- (b) provide that work performed by any such employees or apprentices in the making or baking of bread on Saturdays, Sundays or public holidays or any specified parts of those days shall be regarded as having been performed otherwise than during ordinary hours.

(2) Where regulations are made pursuant to subsection (1) (b) in relation to any work that is to be regarded as having been performed otherwise than during ordinary hours, the wages for that work shall accordingly be payable at such appropriate rate as is applicable to the work pursuant to the relevant award or industrial agreement.

- (b) Section 6 (7)—

After "by that award or agreement", insert "or by the regulations".

- (3) Section 7 (3)—

Omit the subsection, insert instead:

- (3) In this section—

Bread (Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE BREAD ACT 1969 RELATING TO HOURS
OF WORK—*continued*

“prescribed baking hours”, in relation to a bakehouse, means
the period —

- (a) commencing with the starting time fixed pursuant to section 6 for the making or baking of bread and applicable to the bakehouse; and
- (b) ending with the ceasing time so fixed.

(4) Section 8—

Omit the section, insert instead:

Times for delivery of bread by employees

8. (1) The regulations may—

- (a) fix the starting and ceasing times for the delivery by employees who are bread carters or bread sellers, by vehicle or other receptacle, of bread to purchasers; and
- (b) provide that, for the purpose of determining the salary or wages payable for work performed by any such employees in the delivery of bread on Saturdays, Sundays or public holidays or any specified parts of those days, that work shall be regarded as having been performed otherwise than during ordinary hours.

(2) Where regulations are made pursuant to subsection (1) (b) in relation to any work that is to be regarded as having been performed otherwise than during ordinary hours, the wages for that work shall accordingly be payable at such appropriate rate as is applicable to the work pursuant to the relevant award or industrial agreement.

(5) Section 9 (4)—

Omit the subsection, insert instead:

*Bread (Amendment) 1985*SCHEDULE 1—*continued*AMENDMENTS TO THE BREAD ACT 1969 RELATING TO HOURS
OF WORK—*continued*

(4) A bread manufacturer or bread distributor (whether or not that manufacturer or distributor is an employer), or other person employed or engaged for hire or reward in the manufacture or distribution of bread, who delivers bread otherwise than during the period—

(a) commencing with the starting time fixed pursuant to section 8 and applicable to the delivery; and

(b) ending with the ceasing time so fixed,

is guilty of an offence against this Act.

(6) (a) Section 10 (2)—

Omit “Nothing”, insert instead “Subject to sections 6, 8 and 10A and any regulations made pursuant to section 10A, nothing”.

(b) Section 10 (2) (b)—

Omit “except to the extent of the provisions expressly made by sections 6 and 8,”.

(7) Section 10A—

After section 10, insert:

Provisions relating to regulations

10A. The regulations may—

(a) provide that, to the extent specified in the regulations, the provisions of regulations made pursuant to this Part operate to the exclusion of provisions contained in awards or industrial agreements relating to matters dealt with in this Part;

(b) provide that, to the extent specified in the regulations, a provision of a regulation made pursuant to this Part shall be deemed to form part of an award or industrial agreement;

*Bread (Amendment) 1985*SCHEDULE 1—*continued*AMENDMENTS TO THE BREAD ACT 1969 RELATING TO HOURS
OF WORK—*continued*

- (c) amend any award or industrial agreement by omitting any matter relating to matters dealt with in this Part; or
- (d) make such amendments to any award or industrial agreement as are incidental to or consequential on anything in or done under paragraph (a), (b) or (c).

(8) Section 11 (4)—

Omit the subsection.

SCHEDULE 2

(Sec. 4)

AMENDMENTS TO THE BREAD ACT 1969 RELATING TO LICENCES

(1) (a) Section 4 (1), definition of “general licence”—

After the definition of “certificate”, insert:

“general licence” means a general licence issued under Part III or any renewal of such a licence;

(b) Section 4 (1), definition of “special licence”—

After the definition of “shop”, insert:

“special licence” means a special licence issued under Part III or any renewal of such a licence;

(2) Section 6A—

After section 6, insert:

Premises subject to special licence

6A. Nothing in the regulations made pursuant to section 6 or in any award or industrial agreement regulates the starting or ceasing times for the making or baking of bread in premises to which a special licence relates.

Bread (Amendment) 1985

SCHEDULE 2—*continued*

AMENDMENTS TO THE BREAD ACT 1969 RELATING TO
LICENCES—*continued*

(3) Section 7 (5)—

After section 7 (4), insert:

(5) Subsection (4) does not apply in relation to a bakehouse to which a special licence relates.

(4) Sections 11A–11C—

Before section 12, insert:

Classes of licences

11A. (1) Two classes of bread manufacturers' licences may be issued under this Part, namely—

- (a) general licences;
- (b) special licences.

(2) The same premises may not at the one time be the subject of both a general licence and a special licence.

General licences

11B. A general licence is a licence authorising a person to carry on in premises to which the licence relates the business of manufacturing, preparing or baking bread for trade or sale.

Special licences

11C. A special licence is a licence authorising a person to carry on in premises to which the licence relates the business of manufacturing, preparing or baking bread for trade or sale (to the extent provided for by the licence) and is subject to such special conditions as may be prescribed.

(5) (a) Section 12 (1)—

Omit “for trade or sale”.

(b) Section 12 (7A)—

After section 12 (7), insert:

*Bread (Amendment) 1985*SCHEDULE 2—*continued*AMENDMENTS TO THE BREAD ACT 1969 RELATING TO
LICENCES—*continued*

(7A) A person, being the holder of a special licence, who contravenes or fails to comply with a special condition is guilty of an offence against this Act.

(c) Section 12 (8) (c)—

After “licence”, insert “or (where relevant) any special condition of the licence”.

(d) Section 12 (13)—

After section 12 (12), insert:

(13) A reference in this section to a condition does not include a reference to a special condition, except where expressly provided.

(6) Section 14 (1) (b)—

After “condition”, insert “(not being a special condition)”.

SCHEDULE 3

(Sec. 4)

MISCELLANEOUS AMENDMENTS TO THE BREAD ACT 1969

(1) Section 2—

Omit the section.

(2) (a) Section 4 (1), definition of “Secretary”—

After the definition of “regulations”, insert:

“Secretary” means the Secretary of the Department of Industrial Relations or the person for the time being acting as Secretary of that Department;

(b) Section 4 (1), definition of “Under Secretary”—

Omit the definition.

Bread (Amendment) 1985

SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE BREAD ACT 1969—
continued

(3) Sections 11, 12, 13, 14, 21, 28, 30—

Omit “Under Secretary” wherever occurring, insert instead “Secretary”.

(4) Section 32 (3)—

Omit the subsection, insert instead:

(3) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

SCHEDULE 4

(Sec. 5)

TRANSITIONAL PROVISIONS

Interpretation

1. (1) In this Schedule—

“appointed day” means the day appointed and notified under section 2 (3).

(2) Words and expressions used in this Schedule have the same meanings as in the Bread Act 1969.

Existing bread manufacturers’ licences

2. A licence in force immediately before the appointed day shall be deemed to be a general licence.

Bread (Amendment) 1985

SCHEDULE 4—*continued*TRANSITIONAL PROVISIONS—*continued***Existing applications for bread manufacturers' licences**

3. An application for a licence pending immediately before the appointed day shall be deemed to be an application for a general licence, unless the application is made expressly for a special licence.

Applications for, and issue of, special licences

4. Applications may be made for special licences before the appointed day, and special licences may be issued before that day, as if the whole of this Act commenced on the date of assent to this Act, but such a licence does not take effect before the appointed day.

Applications for special licences by holders of general licences

5. (1) If, before the end of the period of 28 days commencing on the appointed day, the holder of a general licence applies for a special licence in respect of any premises to which the general licence relates, the general licence shall, in relation to those premises, be deemed to be a special licence until the application is determined by the Secretary.

(2) If the application is refused, the general licence shall, in relation to those premises, be deemed to be a special licence until—

- (a) where the period provided for the lodging of an appeal against the decision has expired without such an appeal having been lodged—the end of that period; or
- (b) where an appeal against the decision has been lodged—the appeal lapses or is finally determined.



