

Methamphetamine in Rental Properties

Background

Meth use in NZ has caused enormous suffering and anguish. Recreational use of meth is an offence under the Misuse of Drugs Act 1975. Any use of meth in a rental property is a breach of the Residential Tenancies Act.

The current level in the NZ Standard for Meth cleanup is 1.5 micrograms per 100cm². This was adopted by the NZ Standards Meth Committee following a report conducted by the Institute of Environmental Studies and Research (ESR).

The ESR report recommended that the value of 2.0 micrograms per 100cm² be adopted as the standard for maximum MA residue in remediated houses where meth had been consumed and there was no carpet, and 1.5 where there was carpet. ESR recommended that the previous value of 0.5 micrograms per 100cm² be adopted as the maximum meth residue in remediated houses where meth had been manufactured.

Having three values caused confusion, as there was no absolute way to determine if meth had been consumed or manufactured in a property. Because of this, some Local Authorities said they would take the no risk method of assuming meth had been manufactured in all cases.

Because of this, the NZ Standards Meth Committee took a practical approach and adopted 1.5 micrograms per 100cm² as the level regardless of whether meth had been manufactured or consumed in a property.

On 29 May 2018, the Prime Ministers Chief Science Advisor (CSA) released a report on Meth. The main findings were:

- There is no evidence that levels from third-hand exposure to methamphetamine smoking on household surfaces can elicit an adverse health effect.
- Methamphetamine levels that exceed the NZ Standard of 1.5 micrograms per 100cm² should not be regarded as signalling a health risk.
- Exposure to methamphetamine levels below 15 micrograms per 100cm² are unlikely to cause any adverse effects.
- Testing is only recommended where meth lab activity or very heavy use is suspected.

Housing New Zealand

Housing NZ (HNZ) immediately adopted the findings of the CSA report. They increased the decontamination trigger level for a HNZ property to 15 micrograms per 100cm².

HNZ will conduct meth tests where meth lab activity or very heavy meth use is suspected, and if a property tests higher than 15 micrograms per 100cm² will decontaminate to the current Standard of 1.5 micrograms per 100cm².

Housing New Zealand will continue to refer all suspected meth lab activity to Police.

MBIE Advice

MBIE have said that:

1. Tenants and landlords must continue to meet their obligations under the RTA.
2. Tenants who are found to have smoked or manufactured meth in a rental property are in breach of the RTA for using the rental premises for an unlawful purpose.
3. Tenants who cause methamphetamine contamination of rental properties are in breach of their obligation not to intentionally or carelessly damage the rental premises.
4. Landlords who provide premises which are methamphetamine-contaminated are in breach of their obligation to provide habitable premises which are in a reasonable state of cleanliness.
5. Where there is a dispute about contamination, landlords and tenants can apply to the Tenancy Tribunal to adjudicate on the matter. The Tribunal will take into account all evidence put before it and make a binding decision.

Insurance council

The NZPIF has contacted the Insurance Council to establish how they view the CSA report.

The Council are pleased with the report and believe that it will help reduce the number and cost of meth affected properties in NZ.

They will be contacting their Insurance company members to determine what their policy towards meth contamination will be in light of the CSA report.

They advise that this will take time to achieve, and until then all current policy terms and conditions will be honoured. This means that anyone currently remediating a property to the current 1.5 microgram per 100cm² will still be covered.

Before the CSA report was released, the Insurance Council said that landlords only needed to test for meth in-between tenants.

Tenancy Tribunal

We do not yet know the Tenancy Tribunal's reaction to the CSA report.

Scientists on the NZ Standard Meth Committee said it was difficult to categorically confirm if meth had been smoked rather than manufactured in a property. This creates a difficulty, as the Tribunal

may require landlords to provide proof that meth was not manufactured before allowing the higher 15 micrograms per 100cm² to apply.

It is still an offence for Landlords to provide a rental property in an unclean state.

The NZPIF has asked if the Tribunal can confirm whether a property with residual meth up to 15 micrograms per 100cm² is now considered reasonably clean when there is no evidence of meth manufacture.

Residential Tenancies Amendment Bill No 2

Part of this Bill confirms that the NZ Standard on Meth will apply to the RTA. Currently this means that a rental property could be deemed contaminated if meth residue from any source is over 1.5 micrograms per 100cm².

It is unlikely that the Minister of Housing will want this to apply, so he may delay this part of the Bill until the Standard is updated to take into account the CSA report. Unfortunately, advice from Standards NZ is that this is unlikely to occur until after the RTA Bill is passed.

Summary

The CSA report is highly welcome and provides landlords with evidence that they do not have to undertake expensive cleaning if their rental property has meth residue under 15 micrograms per 100cm² without evidence of a meth lab. The report is also helpful in educating tenants that meth in a rental is not going to cause adverse health effects.

However the CSA report has created some uncertainty on landlords requirements and liability for meth contamination.

Homes contaminated with meth from manufacture and possibly heavy use will still need to be cleaned down to 1.5 micrograms per 100cm².

We need Government to clearly state how we are to define meth manufacture as opposed to meth use so we can establish if a property needs to be cleaned down to 1.5 micrograms per 100cm².

We need insurance companies to decide how they will approach meth contamination from now on, and if their policy wording is going to change. They may have fewer requirements on testing for meth, however we don't know that yet.

We need the Tenancy Tribunal to confirm what level of meth they consider a property can contain to be considered reasonably clean.

NZPIF Position

We have contacted the Insurance Council and Tenancy Tribunal to clarify their positions. We will ask the Minister of Housing to clarify when manufacturing has occurred.

Can and should we adopt the CSA report now? Can we tell members that if they have a property tested with meth levels under 15 with no manufacture they shouldn't get it cleaned?