

Rental property WOF Fact Sheet

NZ Property Investors Federation

Last updated August 2018



Legislation Regulating Residential Rentals in NZ.

New Zealand has a number of Acts setting out the standards of rental properties in NZ, and offering protections to both landlords and tenants.

1. The Residential Tenancies Act 1986

This is the central piece of legislation for landlords and tenants, it sets out the rights and obligations of landlords and tenants in a residential tenancy. It also establishes the Tenancy Tribunal and sets out its functions and powers. The key sections regarding standards of housing are:

S45 – The Landlord shall:

- Provide the property in a **reasonable state of cleanliness**
- Provide and maintain the property in a **reasonable state of repair**
- **Comply** with all requirements in respect of buildings, health and safety
- Compensate the tenant for any reasonable expenses incurred by the tenant in repairing the premises.
- Failure to comply with these may result in (i) a penalty of up to \$3000 (called an unlawful act and this money is payable to the tenant), and (ii) any compensation due to the tenant for any loss suffered by the tenant – (often a loss of amenity)

The standards referred to in S45 RTA come from a number of regulations, The Housing Improvement Regulations (now included in the Health Act), Health Act 1956, Hazardous Substances and New Organisms (HASNO) Act, the Building Act 2004 (especially section 121-123, dangerous and insanitary buildings) and health and safety regulations.

Breaches of Section 45 RTA can arise where there is inadequate ventilation and natural light, dampness and mildew, vermin infestation, failure to supply reticulated water, failure to dispose of waste water and failure to comply with building regulations.

The primary piece of legislation though regarding the condition of the property is the Housing Improvement Regulations.

2. The Housing Improvement Regulations

The effect of Section 45 RTA is to incorporate the minimum standards for houses imposed by the Housing Improvement regulations which are administered by the local authority. The regulations use the words 'Adequate' and 'Approved' throughout – and the local authority decides what is adequate and what is approved.

Part 1 – Minimum standards for housing – every house:

- Must have an approved form of heating
- Must have potable water
- Must have effective drainage
- Must have adequate ventilation
- Must have sufficient lighting
- Must have windows
- Must be free from dampness
- Sufficient room size
- Must be kept in good repair

NB: In the debate about warrant of fitness's this piece of legislation seems to be totally overlooked, but it is the main piece of legislation the Tenancy Tribunal refers to when deciding if a landlord is complying with S45 of the Residential Tenancies Act.

The local authority has full powers to check any property that is not up to standard and report to the owner. In some cases a council officer has given evidence in the Tenancy Tribunal relating to the condition of the tenancy. Please read the attached case:

The Real Issue

The price of electricity has the greatest impact on whether a house is warm or not. Many low income families simply cannot afford to turn their heaters on in winter. Even an insulated house will not be warm or dry if it is not heated.

NZPIF policy solutions

- Key focus should be around heating and insulation. Different tenants have different problems and a range of solutions are required, with an attempt to keep rental price increases to a minimum.
- Make insulation and energy efficient heating a tax deductible expense.
- Provide education on how to keep your home warmer and dryer.
- Identify children with health issue issues from living in cold damp houses and provide specific and direct assistance. Supply insulation and energy efficient heating if the property doesn't already have it. Provide electricity vouchers during the winter months.