

## Response ID ANON-8ESE-JFQ6-C

Submitted to Regulation of Methamphetamine Contamination in Rental Housing - Te Tūāpapa Kura Kāinga - Citizen Space (hud.govt.nz)  
Submitted on 2023-03-08 14:47:59

### Submitter information

Your name:

Name:

Peter Lewis

Your email address:

Email:

peter.lewis@nzpif.org.nz

Your phone number:

Phone number:

0274520511

Organisation:

Organisation:

NZ Property Investors Federation Incorporated

Are you making this submission on behalf of an organisation?

Yes

The best way to describe yourself or your organisation:

Industry body or association

Other::

Ethnicity:

Pākehā/NZ European

Other::

Region:

Auckland

Do you live in an Urban, Suburban or Rural area?

Urban

### Use of information

Consent:

I consent to my submission being released if requested under the OIA.

Reasons for withholding submission in whole or in part::

Follow up:

Yes

### Overview of Policy Proposals

1 Do you agree with how the problem is described, and that regulations are needed to address the concerns which are outlined in this section relating to methamphetamine residue in rental housing?

Yes

Why/why not? In your view, what are the problems which currently exist with not having regulations covering these issues?:

2 Do you agree with the proposed objectives for the regulations? See page 7 of the discussion document.

Yes

Why/why not? Are there any objectives you would add or change? :

3 Do you agree with what the regulations are proposed to cover?

Yes

Why/why not? Are there any topics within the scope of section 138C of the Act that you would add or remove from the scope of the regulations? :

4 In what way are Māori likely to be impacted by these proposals?

In what way are Māori likely to be impacted by these proposals? :

Neither more nor less than the impact on any other ethnic group.

5 Do you have anything to add relating to the context in which the regulations will be made or the impact on key stakeholders?

Do you have anything to add relating to the context in which the regulations will be made or the impact on key stakeholders? :

There is still the RTA requirement that a landlord must provide a property that is 'reasonably clean' at the start of the tenancy. Some TT Adjudicators are still insisting that a property above 1.5µg/100cm<sup>2</sup> is not reasonably clean, and ruling against landlords on that basis. The Ministry of Health also says any level above 1.5µg/100cm<sup>2</sup> may be safe but that it is not healthy. Auckland Council regulations require cleaning after manufacture be at 1.5µg/100cm<sup>2</sup>. Apparently MoH and the Council are sticking to their levels and not proposing to change.

This is likely to still leave landlords exposed if their property tests above the 1.5µg/100cm<sup>2</sup> level.

Do you have anything to add relating to the context in which the regulations will be made or the impact on key stakeholders? :

No file uploaded

6 Are there any aspects of the proposals which you have comments about in relation to specific situations or types of tenancies, for example boarding house tenancies?

Are there any aspects of the proposals which you have comments about in relation to specific situations or types of tenancies, for example boarding house tenancies? :

7 Do you agree with the proposed implementation and monitoring arrangements?

No

If not, how should the proposed regulations be implemented and monitored? :

The regulations must be binding on the Tenancy Tribunal.  
If this isn't legislatively possible, perhaps we propose an addition to the regulations that under 15µg/100cm<sup>2</sup> is reasonably clean with regard to meth as well as safe.  
This would reduce the ability of adjudicators to rule that a landlord provided the rental in an unclean state.

Have any testing kits been validated yet? What is the process for validation and has it been provided?  
It must be reasonable and cost-effective to encourage multiple suppliers.  
A few years ago NZPIF spoke to some importers who said the Ministry of Health requirements for validation were so extreme and expensive that it wasn't worth doing.

Will Tenancy Tribunal and insurance companies require testing of new tenants to prove no contamination?

Can tenants contaminating a rental realistically be held accountable? (I.e, tenants limitation of liability) .

Local authorities should be required to follow the regulations - Auckland Council regulations require cleaning after manufacture be at 1.5µg/100cm<sup>2</sup>. Apparently MoH and that Council (possibly others as well) are sticking to their levels and not proposing to change.

## Policy Proposals

8 Do you agree that the maximum acceptable level of methamphetamine residue should be 15µg/100cm<sup>2</sup>?

Yes

Why/why not?:

9 Do you agree that premises tested following decontamination must have a methamphetamine residue level at or below 15µg/100cm<sup>2</sup> (remediation level) to no longer be considered contaminated?

Yes

Why/why not?:

Can you give us an indication of costs incurred and other impacts if the remediation level was 1.5µg/100cm<sup>2</sup> :

We have had reports from members spending tens of thousands (and in one known case, above \$100,000) to clean down to what we consider to be an unreasonably low level. This cost will, obviously, eventually impact on the level of rents that those landlords will charge.

You can upload supporting documentation to give us an indication of costs incurred and other impacts if the remediation level was 1.5µg/100cm<sup>2</sup>?:

No file uploaded

10 Do you think we considered the right options in coming to the proposed option? See Issues 1 and 2 in Part C of the discussion document.

Yes

If not, what other options do you think should have been considered? :

11 Do you have any other comments about the proposal to set a maximum acceptable level of methamphetamine residue at 15µg/100cm<sup>2</sup>?

Do you have any other comments about the proposal to set a maximum acceptable level of methamphetamine residue at 15µg/100cm<sup>2</sup> :

The regulations must be binding on the Tenancy Tribunal.

This would remove the ability of adjudicators to rule that a landlord provided the rental in an unclean state if the level is below 15 but above 1.5 (or even 0.5).

Maximum inhabitable level of methamphetamine

12 Do you agree that the maximum inhabitable level of methamphetamine residue should be 30µg/100cm<sup>2</sup>?

Not Answered

Why/why not?:

If acknowledged experts hold the view that a level of 50µg/100cm is perfectly safe then a level of 30 should be well within any statistical error.

13 Do you think we considered the right options in coming to the proposed option for the maximum inhabitable level?

Yes

If not, what other options do you think should have been considered?:

14 Do you think a different level would be more suitable as a maximum inhabitable level?

No

If yes, what level would you propose, and why?:

15 Do you think there will be any unintended consequences of setting the maximum inhabitable level of methamphetamine residue at 30µg/100cm<sup>2</sup>, for example on different stakeholders?

No

Please explain.:

As far as we can tell, the only detrimental impact would be on the business of the decontamination companies.

16 Do you have any comments about how rent abatement may impact on the parties, following permitted detailed testing showing that the level is over 30µg/100cm<sup>2</sup>, and on the basis that the tenant did not cause the contamination?

Do you have any comments about how rent abatement may impact on the parties, following permitted detailed testing showing that the level is over 30µg/100cm<sup>2</sup>, and on the basis that the tenant did not cause the contamination?:

If only part of the premises are contaminated (eg garage) then a pro-rata rent abatement should apply.

If the entire property is contaminated and considered uninhabitable then the current regulations around unsafe premises (eg flood, earthquake etc) should apply, and there should be no legislative requirement for landlords to source or pay for alternative accommodation.

17 Can you provide any data or other evidence about the likely prevalence of residential tenancies testing above 30µg/100cm<sup>2</sup>?

Can you provide any data or other evidence about the likely prevalence of residential tenancies testing above 30µg/100cm<sup>2</sup>?:

No

18 Do you have any other comments about the proposal to set a maximum inhabitable level of methamphetamine residue at 30µg/100cm<sup>2</sup>?

Do you have any other comments about the proposal to set a maximum inhabitable level of methamphetamine residue at 30µg/100cm<sup>2</sup>?:

### Requirements for landlords

19 Do you think the right options were considered when reaching the proposals on requirements for landlords? See issues 4 and 5 in Part C of the discussion document.

Yes

If not, what other options do you think should have been considered, and why?:

Acting on advice about manufacture

20 Do you agree that landlords should be required to professionally test for methamphetamine contamination in this situation?

Not sure

Why/why not?:

The process, while reasonable, would be costly.

The impact of this cost should therefore fall on the individual(s) who created the problem - which is unlikely to have been the landlord.

21 Do you think there should be other situations where a landlord is required to test under the regulations?

No

If yes, please specify.:

Acting on positive test results

22 Do you agree that landlords should be required to professionally test for methamphetamine contamination in this situation?

Yes

Why/why not?:

Requirement to re-test

23 Do you agree that landlords should be required to arrange professional re-testing in this situation?

Yes

Why/why not?:

24 Can you identify any concerns with the requirement to ensure that the tester and decontaminator are independent entities?

Can you identify any concerns with the requirement to ensure that the tester and decontaminator are independent entities?:

No, seems appropriate.

### Timeframes

25 Do you agree with the proposed timeframes?

Not sure

Why/why not? What alternative timeframes would you suggest? :

While any action by a landlord (or a landlord's representative) is within their control, action by other parties is not. It should therefore be held that a written instruction and receipt of that instruction by any outside contractor to carry out the work as soon as they are available should be a compliant act.

Do you have evidence how long it currently takes to arrange a methamphetamine test or decontamination?:

No.

Do you have evidence about how long it currently takes to arrange a methamphetamine test or decontamination?:

No file uploaded

## Testing

26 Do you agree that anyone should be able to undertake screening assessment as long as they use approved tests, follow all the instructions, and take appropriate health and safety precautions?

Yes

Why/why not?:

27 Do you agree that detailed assessment should only be able to be undertaken by qualified professionals?

Not sure

Why/why not?:

At this time there appears to be no 'qualification' for such persons.

Anyone, right now, can hold themselves out to be qualified - presumably after just reading an instruction manual..

28 Do you have any other feedback about the proposals relating to screening assessments and detailed assessments?

Do you have any other feedback about the proposals relating to screening assessments and detailed assessments? :

Permitted types of tests and analysis

29 Do you agree that these tests should be acceptable for the purposes of the regulations?

Not sure

Why/why not? Do you consider that any other types of tests should be acceptable under the regulations? Please explain. :

Have any testing kits been validated yet? What is the process for validation and has it been provided?

It must be reasonable and cost-effective to encourage multiple suppliers.

A few years ago NZPIF spoke to some importers who said the Ministry of Health requirements for validation were so extreme and expensive that it wasn't worth doing.

30 Do you agree that unless an accredited screening test kit is being used, all samples need to be analysed and reported on by accredited laboratories?

Not sure

Why/why not?:

See above comment.

Tests which are not permitted

31 Do you agree that these tests should not be acceptable for the purposes of the regulations?

Not sure

Why/why not?:

Field composite tests are a valuable first-indicator of possible contamination, and are therefore a useful tool.

32 Do you have any other comments on the proposed acceptable or not acceptable types of tests for the purposes of the regulations?

Do you have any other comments on the proposed acceptable or not acceptable types of tests for the purposes of the regulations? :

No

33 Do you have any other feedback about the proposals relating to screening assessments and detailed assessments?

Do you have any other feedback about the proposals relating to screening assessments and detailed assessments? :

## Decontamination

34 Do you agree with the proposed decontamination process?

Yes

Why/why not? Do you think there were any other options which should have been considered when developing the proposed decontamination process? (See issue 7 in Part C of the discussion document):

35 Would you suggest any changes or additions to the proposed decontamination process?

Would you suggest any changes or additions to the proposed decontamination process? :

36 Do you think the proposed decontamination process allows for new decontamination methods as long as they're effective?

Do you think the proposed decontamination process allows for new decontamination methods as long as they're effective? :

Yes

How the regulations will apply to property which is part of the premises

37 Do you agree with the proposals relating to property which is part of the premises?

Yes

Why/why not?:

There seems to be no evidence that such chattels spread contamination.

As such we do not see any proposals to check for meth contamination in vehicles, restaurants or other forms of accommodation such as hotels and motels.

Who can do decontamination work

38 Do you agree that any person can carry out decontamination work?

Yes

Why/why not?:

Provided that the retesting after such work has been completed as per the proposed regulations.

39 Do you think the right options were considered when reaching this proposal? See Issue 8 in Part C of the discussion document.

Yes

If not, what other options do you think should have been considered? :

Tenants remaining in premises during decontamination work

40 Do you think it is workable for a tenant to remain living in the premises during decontamination work?

Not sure

Do you think that the proposed maximum acceptable level and remediation level of 15µg/100cm<sup>2</sup> (compared with 1.5µg/100cm<sup>2</sup> which was often required in the past) will make a difference as to whether tenants can remain? :

Yes, as in some cases the lower level meant that the house had to be entirely gutted.

41 How have you managed this situation in the past when decontamination work was required?

How have you managed this situation in the past when decontamination work was required?:

The tenants departed and the high levels were found after departure.

Did the tenants remain in the premises while decontamination work was carried out, or was a formal or informal agreement reached for them to move out? :

They left without notice.

Abandoned goods

42 Do you agree with the proposed requirements on landlords for managing abandoned goods on contaminated premises?

Not sure

Why/why not?:

It would seem to make the best of an undesirable situation.

Note that if the landlord stores goods at their cost for 35+ days and the tenant does not reclaim them, the only financial recompense for the landlord is a claim on the Bond.

43 Do you think that landlords should be able to dispose of goods abandoned on contaminated premises without testing them for contamination and without storing them?

Yes

Why/why not?:

If they are abandoned then why should the landlord be required to be the custodian at their own cost?

44 Do you have any other comments or alternative suggestions or options to consider in relation to the abandoned goods proposals?

Do you have any other comments or alternative suggestions or options to consider in relation to the abandoned goods proposals?: