

## Response ID ANON-8ESE-JFQH-X

Submitted to Regulation of Methamphetamine Contamination in Rental Housing - Te Tūāpapa Kura Kāinga - Citizen Space (hud.govt.nz)  
Submitted on 2023-03-10 15:51:46

### Submitter information

Your name:

Name:

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Your email address:

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Your phone number:

Phone number:

021678029

Organisation:

Organisation:

Auckland Property Investors Association 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:

Other

Other::

Not relevant

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?:

Having two persuasive but non-binding authorities on what is a 'safe' level of methamphetamine residue at the rental property creates inconsistencies between rental parties' (landlord, tenant and property manager) expectations vis-à-vis methamphetamine, tribunal adjudications and insurance policies. These inconsistencies, in turn, beget uncertainty, confusion and conflict between parties.

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?

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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? :

Though we acknowledge this regulation is to fall within the scope of s138C of the Residential Tenancies Act, we are wary of the continued uncertainties of acceptable methamphetamine standards under s45(1)(a) and s45(1)(c), especially in an environment where the Ministry of Health and several local councils follow the lower 1.5µg/100cm<sup>2</sup> standard as 'healthy' and 'safe' and Tribunal adjudicators using the same standard to adjudge 'reasonable state of cleanliness'.

While this regulation creates certainty for landlords vis-à-vis s45(1)(bd) and s59B, it does not limit the landlord's methamphetamine-related risks across the board.

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

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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?

Yes

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

## 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?:

For now, we support the proposed standard reflecting that of the recommendation made by the Gluckman report. However, the Gluckman report is a peer review of existing literature at the time, not a scientific study. It concludes, among other things, 'exposure to methamphetamine levels below 15 µg/100 cm<sup>2</sup> would be highly unlikely to give rise to any adverse effects.' Future scientific studies on the effects of methamphetamine exposure on the human body could very well dispute this conclusion.

Given the evolving nature of our understanding of the effects of methamphetamine exposure on the human body, we think the regulation should anticipate the possibility of that understanding changing at some point in the future. For the tenants' health, we think it is important for the regulation always to reflect the good and robust science of the time. We recommend that instead of committing to a set level (i.e. 15µg/100 cm<sup>2</sup>) that likely require the regulation to be overhauled/amended in the future should evidence-based understanding of the health effects of methamphetamine exposure to the human body change, the regulation contains mechanisms for it to automatically or (at least) seamlessly adopt the new scientific understanding of the time.

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?:

To avoid uncertainty, we think it is important for the regulation to be simple and easy to follow. Aligning the maximum acceptable level of methamphetamine residue with the clean-up level will achieve that.

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

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>:  
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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> :

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 sure

Why/why not?:

We acknowledge the Ministry's pragmatic approach to facilitating a 'trigger' level for s59B, though, by the consultation document's own admission, this level is not backed up by evidence-based science.

We recommend that a similar future-proofing mechanism be built into the regulation (see our comments under question 8) for it to adopt an appropriate level in the future that reflects the science and understanding of the time.

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?

Not sure

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?

Yes

Please explain.:

We can see how some tenants would feel uncertain and unsafe in a property with a methamphetamine contamination reading of between 15 and 30µg/100cm<sup>2</sup> as at above 15µg/100cm<sup>2</sup>, the property is deemed 'contaminated' (i.e. reasonably interpreted as 'unsafe') but the tenant has no mechanism to exit the property until contamination reaches 30µg/100cm<sup>2</sup>.

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?

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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>?:

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?

Yes

Why/why not?:

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?:

We support the requirement for the tester and decontaminator to be independent and separate entities giving the conflict of interest. Given how opaque some commercial arrangements and entity ownerships can be, we do not support putting the onus of ensuring independence and separation entirely on the landlord. Our view is that, beyond a simple search on the company register, most landlords are not resourced nor skilled enough to make further inquiries as to guarantee independence and separation to the tenant absolutely.

### Timeframes

25 Do you agree with the proposed timeframes?

Yes

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

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

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### 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?

Not sure

Why/why not?:

We are generally supportive of anyone being able to undertake a screening test with an approved test kit and take appropriate health and safety precautions. However, we would like to understand the test kit approval process (to ensure cost-efficiency in a way that would promote market competition) and clarity on how to deal with/dispute/validate test results if the tester fails on one or both of these requirements.

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

Yes

Why/why not?:

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?

Yes

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

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?

Yes

Why/why not?:

Tests which are not permitted

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

Yes

Why/why not?:

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? :

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? :

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?:

Who can do decontamination work

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

Yes

Why/why not?:

As long as the decontaminator follows all approved industry guidelines relating to the decontamination, we are supportive of the proposal to allow anyone to carry out the work.

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? :

Absent a uniform and evidence-based scientific understanding of the effects of methamphetamine exposure on the human body, we see this regulation as a drawing-a-line-in-the-sand exercise. The issue isn't whether the tenant can remain at the property, but if the tenant wants to (or, oftentimes, if the tenant has to). We are open to engaging with the Ministry to consider whether mechanisms can be built into the regulation to support a tenant's choice within reason.

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?:

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? :

Abandoned goods

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

Not sure

Why/why not?:

Though we acknowledge the Ministry's intent to engage ESR guidance on how to handle contaminated goods safely, we are extremely concerned about requiring landlords (or their representatives) to personally handle contaminated goods when most of them would have no training or knowledge to support them doing so safely.

We would welcome the opportunity to review and give feedback on any ESR guidance the Ministry receives and intended to implement as part of this regulation.

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?:

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?: