



Te Tūāpapa Kura Kāinga
Ministry of Housing and Urban Development

Regulation of methamphetamine contamination in rental housing: Regulatory options

Summary of submissions

Contents

Glossary and commonly used acronyms	3
Purpose	4
Consultation and engagement	4
Approach to analysis	5
What was proposed	7
Summary of responses	8
Regulated levels of methamphetamine	14
Requirements for landlords	19
Testing for methamphetamine contamination	23
Decontamination process	26
Abandoned goods on contaminated premises	30

Glossary and commonly used acronyms

HUD	Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development
MAL	Maximum acceptable level
MIL	Maximum inhabitable level
MBIE	Ministry of Business, Innovation and Employment
RTA	Residential Tenancies Act 1986
s 138C	Section 138C of the Residential Tenancies Act 1986

Introduction

Purpose

This report summarises the submissions and feedback received during consultation on proposals for methamphetamine regulations under the Residential Tenancies Act 1986 (RTA) by Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development (HUD).

Consultation and engagement

The former Minister for Housing, Dr Megan Woods MP, released the discussion document on proposals for the regulation of methamphetamine contamination in rental housing on 22 November 2022.

The consultation was due to close on 20 February 2023. The deadline was extended to Friday 10 March 2023 following the disruption caused by extreme weather events in early 2023.

The [discussion document, two-page summary of the proposals and two supporting evidence reports](#) published by the Institute of Environmental Science and Research (ESR) were available on the HUD website. Submissions to the consultation could be made using an online form or by email. The consultation page was viewed 2,265 times.

We promoted the consultation on Twitter, Facebook and LinkedIn and the posts were collectively viewed over 3,000 times. The consultation was promoted directly with stakeholders, including property industry bodies, community housing providers, tenant advocate organisations, local government, legal bodies, scientists and academics, members of the methamphetamine testing and decontamination industries, housing providers and national organisations representing housing providers, including those with a specific focus on housing whānau Māori.

As part of the consultation process, we hosted or participated in the following workshops and hui:

- Insurance Council of New Zealand virtual meeting (6 December 2022)
- Stakeholder virtual workshop 1 (6 December 2022)
- Real Estate Institute of New Zealand virtual meeting (7 December 2022)
- Community Housing Aotearoa virtual webinar (7 December 2022)
- Stakeholder virtual workshop 2 (8 December 2022)
- New Zealand Drug Foundation virtual meeting (24 January 2023)
- New Zealand Association for Contaminant Free Properties virtual meeting 1 (25 January 2023)
- New Zealand Association for Contaminant Free Properties virtual meeting 2 (31 January 2023)
- Māori community housing stakeholder in person hui 1 (13 February 2023)
- Māori community housing stakeholder virtual hui 2 (14 February 2023)

- Māori community housing stakeholder virtual science Q&A with Peter Cressey, ESR (16 February 2023)
- Community Housing Aotearoa submission feedback webinar (22 February 2023).

Approach to analysis

We have carefully assessed the submissions and feedback received through the consultation, workshops and hui. Feedback provided through workshops and hui have been incorporated alongside relevant key issues and topics.

Submitters did not always answer all questions set out in the discussion document and submissions form, and some chose not to respond in these formats. Where the submitter's intent was clear, we included their agreement, disagreement or uncertainty to a particular proposal in the summary of the survey results. Where intent was not clear, but comments were made that related to a particular proposal or question posed, we recorded submitters support/opposition as 'Not sure', while considering the implications of their comments for the respective proposal.

When assessing the responses, we identified similarities and differences of view between different sector groups, where appropriate. For example, among landlords and property managers, methamphetamine testing and decontamination companies, and tenant advocacy organisations. While still valuing the views offered in submissions from individuals, we are mindful that some submissions reflect the views of a wider membership.

We have provided quantitative summaries of responses to questions with more closed answers, while summarising comments to open questions in relevant sections of the report.

Submission overview

We received 90 submissions from a range of individuals and organisations. Of the 90 submissions received, 58 percent were on behalf of an organisation and 40 percent were made by individuals.¹ Most submissions made by individuals were from submitters who best described themselves as a landlord or a property manager, accounting for 83 percent of submissions made by individuals.

Some industry associations with significant membership bases sought their members' views before providing a consolidated submission. For example, the Real Estate Institute of New Zealand, which has over 17,500 members, received 108 responses to a survey of their members' views on the proposals, which informed their submission. Similarly, Community Housing Aotearoa's submission reflected the views and inputs from around 70 members.

The following table summarises the number of submissions we received by submitter type.

Table 1: Number of submissions, by submitter type

Submitter type	Number
Tenant	4
Tenant advocate organisation	2
Landlord	33
Property manager	10
Community housing provider	9
Methamphetamine tester	9
Methamphetamine decontaminator	6
Insurance provider	2
Lawyer/law firm	3
Scientist/laboratory	2
Local government	2
Industry body or association	7
Other ²	12
TOTAL³	101

¹ The remaining two percent of submissions, equivalent to two submissions, did not identify who they were responding on behalf of or how they were best described, for example, tenant, property manager, other.

² Examples of submission types from the 'Other' category include academic/researchers, transitional housing providers, NGO/social services organisations, a peak body and a crown entity.

³ The submitter type total (101) is greater than the number of submissions (90) because submitters were able to select more than one option when filling out the submissions form.

Problem definition, regulatory scope, objectives and overarching issues

What was proposed

Part A of the discussion document explained why regulations are needed, the proposed scope of the regulations, regulatory objectives and proposals for implementation and monitoring arrangements. We also asked submitters high-level questions about these matters.

The discussion document set out the context for methamphetamine in Aotearoa New Zealand. For example, that methamphetamine is a Class A controlled drug under the Misuse of Drugs Act 1975 and that while direct contact/use has been shown to cause medical harm, the health risks arising from ‘third hand’ methamphetamine exposure. For instance, risks from exposure to residue on surfaces are not conclusive.

Aotearoa New Zealand has no legally binding rules around management of methamphetamine residue in rental housing. This has led to inconsistent industry standards, with two differing “acceptable” levels for methamphetamine contamination in use, lack of public confidence about how to manage risks relating to contamination and high costs (relative to risk) for remediation in some cases.

Section 138C of the RTA (s 138C) allows regulations to be made about the management of contaminants, including methamphetamine. The proposals set out in the discussion document and issues the consultation asked for feedback on, are therefore limited to the scope of s 138C. In line with s 138C, the discussion document set out proposals to regulate for:

- a maximum acceptable level (MAL) and a maximum inhabitable level (MIL) of methamphetamine contamination in housing
- requirements for landlords on when and how to test for methamphetamine contamination
- what types of testing are permitted under the regulations
- how to decontaminate the premises including while the landlord continues to provide the premises to the tenant
- what to do when possessions are left behind in contaminated premises.

There were proposed objectives for the regulations:

- Minimise the health risk from exposure to methamphetamine contamination in rental housing.
- Provide certainty to tenants and landlords about their rights and responsibilities around methamphetamine contamination.
- Provide clear rules and processes for testing and decontamination for methamphetamine residue.

- Support professional conduct and standards in the methamphetamine testing industry. Prescribe an approach that will manage costs of testing and decontamination for landlords and tenants.

Proposals for application and monitoring set out in the discussion document include collaborative working between HUD and the Ministry of Business, Innovation and Employment (MBIE) Tenancy Services team to prepare guidance and other information for relevant stakeholders. MBIE’s Tenancy and Compliance Investigations Team may respond to complaints of systematic issues where landlords are not fulfilling their obligations under the regulations. HUD and MBIE are the regulatory stewards for the residential tenancy system and will work to monitor the implementation of the proposed regulations. This includes working with MBIE’s Tenancy Services team and Justice Services within the Ministry of Justice, which administers the Tenancy Tribunal.

Following Cabinet decision on the regulations, HUD may choose to review the relevant NZ Standard 8510:2017 ‘Testing and decontamination of methamphetamine-contaminated properties’, which is out of scope for this consultation.

Summary of responses

Most submitters agreed with the problem definition.

Submissions made wide ranging comments about the implication of the proposals for Māori, the wider context in which the regulations will be made and their impact on key stakeholders.

Submitters also shared views on how the proposals would relate to specific situations or types of tenancies, with many calling for clarification about how the proposals would impact emergency and transitional housing, which is not covered by the RTA.

Issue 1: Problem definition and need for regulation

Submitter views

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? Why/ why not? In your view, what are the problems which currently exist with not having regulations covering these issues?	
Yes	75.7 percent
No	14.9 percent
Not sure	9.5 percent

Most submitters agreed with how the problem was described and that regulations are needed to address the concerns outlined in the discussion document. These submitters said that the current situation is confusing, onerous and that clarity is needed. However,

some submitters who agreed with the problem definition suggested that when considered alongside other issues in the private rental market, methamphetamine contamination was not a priority issue and, though regulations were needed, other contaminants such as mould were more common and posed a greater hazard.

Some community housing providers raised concerns that the discussion document had not adequately considered the risk third-hand exposure to methamphetamine contamination may pose to vulnerable individuals, such as children or the elderly, people with pre-existing health conditions or population groups that disproportionately experience poor health, such as Māori. Submitters also suggested lived experience of adverse health effects at lower levels of methamphetamine residue had not been given adequate consideration.

While a minority of submitters disagreed, they were relatively consistent in their view that the discussion document suggested that methamphetamine testing and decontamination were the problem and key issues to be addressed, rather than methamphetamine contamination itself.

Issue 2: Regulation objectives

Submitter views

Do you agree with the proposed objectives for the regulations? Why / why not? Are there any objectives you would add or change?	
Yes	78.3 percent
No	13.0 percent
Not sure	8.7 percent

Most submitters agreed with the proposed regulation objectives. However, some submitters that agreed raised concerns that the regulatory proposals would not deliver the objectives. These concerns are covered in relevant sections on regulatory proposals below.

Some submitters called for greater recognition of the importance of housing stability for effective drug harm reduction and substance use recovery, and the need for this to be considered in the regulation objectives.

Some submitters said that the regulatory proposal to “Maintain the asset in the instance of methamphetamine contamination” was at odds with the regulation objectives.

Two submitters proposed additional objectives, including to “Support a harm reduction approach to housing security for tenants who use illicit substances” and “reduce levels of meth contamination in property.”

Issue 3: Regulation scope

Submitter views

Do you agree with what the regulations are proposed to cover? 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?	
Yes	71.6 percent
No	23.9 percent
Not sure	4.5 percent

Most submitters agreed with what the proposed regulations cover. Comments about the scope of the regulations related to regulatory proposals are covered in the relevant sections below.

Some submitters raised issues not covered by the proposals in the discussion document. These included measures to prevent insurers imposing more onerous requirements than the regulations, prescribing a process for methamphetamine sampling and considering a longer notice period for landlord-initiated tenancy termination.

Some submitters, mostly from the methamphetamine testing and decontamination industry, called for a cost-benefit analysis to assess the impact of the proposals on landlords' operational costs and impact on asset values. Some of these submitters were concerned there was not a clear presentation of the proposal's financial impact in the discussion document.

Issue 4: Impact on Māori

Submitter views

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

Nearly all submitters said that Māori were likely to be disproportionately impacted by the proposals, as a significant proportion of Māori live in rental housing. Some also highlighted evidence that Māori are more likely to use amphetamines than other population groups.

Submitters were divided in their view of whether impacts would be positive or negative for Māori. Submitters disagreeing with aspects of the proposals, particularly those advocating for lower levels than proposals for the MAL and MIL, believed the impact on Māori would be negative, mainly due to concerns regarding health risks posed by exposure to methamphetamine residue. Many of these submitters raised concerns that wider systematic inequalities had not been considered in development of the proposals.

In contrast, submitters who broadly agreed with the proposals thought the impact would increase certainty and housing stability and reduce disruption from remediation of low levels of methamphetamine residue.

Some submitters, including community housing providers, methamphetamine testing and decontamination companies and industry bodies, raised concerns that applying the articles and principles of Te Tiriti o Waitangi / Treaty of Waitangi had not been given sufficient consideration, and that there was not enough discussion or evidence about how Tiriti obligations had been met in the discussion document.

Some community housing providers and one peak body also raised concerns that the proposals, particularly the proposed MAL of 15µg/100cm², are inconsistent with tīkanga Māori and would restrict them in taking a whānau-centred approach to housing. To support a whānau-centred approach and demonstrate commitment to Tiriti obligations, these submitters suggested lower MAL and remediation levels were needed, as well as additional options for whānau to exit tenancies where properties are contaminated, additional termination powers for housing providers, baseline testing of properties and the inclusion of tenant goods in the decontamination process. These issues are covered in more detail in relevant sections below.

Issue 5: Wider context for the regulations

Submitter views

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

Many comments made by submitters in this section related to issues and proposals which are covered elsewhere in this report. However, multiple submitter's comments in this section related to the wider context the regulations will be made in, or the regime's impact on key stakeholders.

Many submitters requested clarity regarding how the regulations would interact with other sections of the RTA, for example section 56A (termination where premises are unlawful premises), as well as other legislation, such as the Health and Safety at Work Act 2015. Submitters also called for clarity about how the proposals would impact Tenancy Tribunal decision making. These submitters often called for implementation guidance to be developed alongside the final regulations, setting out parties' responsibilities or providing additional guidance for managing an issue.

Some submitters, including landlords, property managers and methamphetamine testing and decontamination companies, raised concern about a lack of research or evidence to support the proposals, that the evidence underpinning the current proposals was not robust, or that engagement with health experts in the development of proposals was insufficient or had not taken place. Many of these submitters suggested further research

was needed before setting regulations, and that levels set out in the NZ Standard 8510:2017 should be employed in the meantime.

Some submitters, largely from methamphetamine testing and decontamination companies, raised concerns that the proposals would normalise methamphetamine use, and did not sufficiently consider the wider social impact of methamphetamine use and its costs. They suggest the consequence of this will be increased harms and societal costs (for example, housing and health costs), which have not been appropriately considered in the proposals' development. These submitters called for an 'early intervention' approach, which deters methamphetamine-related behaviour. Many of these submitters suggested that methamphetamine contamination was a growing issue and that an increasing proportion of properties were testing positive for methamphetamine at higher concentration levels.

Some submitters, including tenant advocate organisations and community housing providers, said a broader harm reduction approach was needed for those affected by methamphetamine use, and that proposals should include referrals to wraparound services able to support people with complex needs. These submitters often mentioned the importance of providing secure housing for health and wider outcomes and the need for regulatory proposals to not undermine security of tenure.

Issue 6: Impact on specific situations or tenancy types

Submitters views

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?

Submitters said that the final regulations should be applied or used as seamlessly as possible across all housing tenures, to provide clarity and avoid confusion.

Many submitters, particularly community housing providers, transitional housing providers and industry bodies/associations noted that emergency and transitional housing would not be covered by the regulations because they are not covered by the RTA. These submitters called for clarity about how the regulations would be applied and consultation with relevant stakeholders to ensure any appropriate amendments were made.

A few submitters noted that some issues may be more complicated between different tenancies, for example, boarding house tenancies, and that guidance about application of the regulations is needed.

Submitters from methamphetamine testing and decontamination industries suggested a need for additional testing measures for tenancies considered to be at higher risk of methamphetamine contamination. They proposed that emergency, boarding house and multi-level apartment type buildings used for emergency, transitional and social housing should be tested regularly, for example, between tenancies and at least every two years for a fixed tenancy.

Some submitters also requested further information or clarification regarding how the regulations could be applied for types of tenure used by Māori housing providers, such as papakāinga and Community Land Trusts, which are not covered by the RTA.

Issue 7: Implementation and monitoring arrangements

Submitter views

Do you agree with the proposed implementation and monitoring arrangements? If not, how should the proposed regulations be implemented and monitored?	
Yes	48.5 percent
No	31.8 percent
Not sure	19.7 percent

Many submitters identified a need for implementation guidance and appropriate resources to help stakeholders understand their responsibilities. Submitters identified Tenancy Services as the appropriate lead for this work. One submitter suggested Tenancy Services should lead additional consultation with stakeholders to understand what resources and guidance are needed. One submitter suggested methamphetamine contamination falls outside of Tenancy Services and the Investigation and Compliance Team’s expertise, and that further consideration of an appropriate steward may be necessary.

Submitters widely identified the need for the NZ Standard 8510:2017 to be reviewed and aligned with the final regulations.

Some submitters also suggested a Māori-led or focused agency should be closely involved in the monitoring process, considering the proposals may have a disproportionate effect on Māori.

Some submitters suggested long-term health data should be collected or monitored to identify any adverse health impacts caused by the proposals, and that further research should be conducted on the health impacts of third-hand exposure to methamphetamine residue.

Regulated levels of methamphetamine

What was proposed

The discussion document proposed a maximum acceptable level (MAL) of 15µg/100cm² for methamphetamine residue. This would mean that when methamphetamine residue is found in a property over this level, it is considered contaminated and decontamination is required. Decontamination is proposed to be satisfied if, after decontamination, the tested levels meet the remediation level of 15µg/100cm² or less.

A maximum inhabitable level (MIL) of 30µg/100cm² for methamphetamine residue was also proposed. If permitted testing established that methamphetamine residue is present above this level, a tenant and landlord could terminate the tenancy with a minimum of two- or seven-days' notice respectively providing they are not responsible for the contamination (in the case of a tenant) or were unaware of contamination at the start of the tenancy (in the case of a landlord).

Summary of responses

These issues received more feedback and higher engagement than any other area. Submitters strongly supported the need to establish clarity about a MAL of methamphetamine residue. There was more uncertainty of the need for a MIL.

Submitters were largely split in their agreement/disagreement about whether the right options were considered in coming to the proposals, with most respondents suggesting the proposed MIL would have unintended consequences.

Some submitters, particularly those responding on behalf of an industry body or association, expressed support for setting a MAL and MIL, but withheld a position on the exact levels at which these should be set, citing a lack of expertise to comment.

One submission suggested that landlords and tenants should be able to mutually agree to a lower MAL and MIL, and that if no alternative levels were agreed to, levels set out in the regulations could act as a default. Some submitters also called for additional powers to terminate tenancies where levels of methamphetamine residue were found below the MIL.

Issue 1: Maximum acceptable level of methamphetamine residue

Submitter views

Do you agree that the maximum acceptable level of methamphetamine residue should be 15 ug/100cm ² ? Why/Why not?	
Yes	39.4 percent
No	57.4 percent
Not sure	3.2 percent

Submissions in favour of the proposal largely agreed on the basis that it was supported by the currently available scientific evidence. Submitters noted that the proposed level would provide certainty for relevant parties and prevent unnecessary and costly remediation works from being undertaken.

Those suggesting a much lower MAL should be adopted were mostly landlords, property managers, and methamphetamine testing and decontamination companies. The most common alternative proposal was $1.5\mu\text{g}/100\text{cm}^2$ as set out by NZS 8510:2017. However, some submitters, including community housing providers, suggested $5\mu\text{g}/100\text{cm}^2$ would be better. Submitters widely used a lack of evidence as the reason to support a higher MAL, in addition to lived experience and other evidence suggesting that exposure to methamphetamine at levels below $15\mu\text{g}/100\text{cm}^2$ poses health risks. Submitters also raised concerns about the risk to population groups who are generally considered to be vulnerable to health harms, such as older people and young children.

Most submitters who disagreed with the proposal said further evidence was needed and that recent reports by ESR do not provide evidence or justification for the proposals. Many of these submitters cited a recommendation for further research by the government's former Chief Science Advisor, Sir Peter Gluckman, made in the 2018 report on methamphetamine contamination in residential properties, raising concerns that this hadn't been actioned. Submitters also suggested the proposal was out of line with international approaches.

Three community housing providers and one peak body said that the proposed MAL would negatively impact their current tenancy management approach and were inconsistent with a whānau-centred approach to housing and tīkanga Māori:

- Setting the MAL at $15\mu\text{g}/100\text{cm}^2$ would suggest to tenants that methamphetamine use up to this level was acceptable and would undermine providers' ability to take a zero-tolerance approach to methamphetamine, build communities free from it and show manaakitanga to their residents.
- Vulnerable whānau members such as kaumātua, tamariki and pēpi may be exposed to higher levels of methamphetamine residue, with insufficient evidence available regarding the health impacts of this.
- In their experience, methamphetamine contamination occur alongside other complex issues. Testing for methamphetamine provides a helpful way of identifying associated issues early on and engaging tenants with complex needs who may have otherwise disengaged from the provider and other services. In their view, setting the MAL at $15\mu\text{g}/100\text{cm}^2$ would remove this engagement tool by raising the threshold for action to an unacceptably high level.

A minority of submissions proposed the MAL could be set higher, up to 30 or $50\mu\text{g}/100\text{cm}^2$, suggesting that this would be supported by the available evidence.

Issue 2: Setting a level for contaminated properties to be remediated to

Submitter views

Do you agree that premises tested following decontamination must have a methamphetamine residue level at or below 15µg/100cm ² (remediation level) to no longer be considered contaminated?	
Yes	41.8 percent
No	56.0 percent
Not sure	2.2 percent

Submitters' views on the remediation level largely followed from their position on the proposed MAL. Those that supported the proposal to set the MAL at 15µg/100cm² widely agreed that setting the remediation level at the same level was logical. Submitters that disagreed with the proposed MAL also disagreed with a remediation level of 15µg/100cm², often suggesting that contaminated properties should be cleaned back to 1.5µg/100cm² or 5µg/100cm².

Some submitters said that the remediation level needs to be set lower than the MAL, regardless of what level the MAL is set at. For example, they suggest that if the MAL was 15µg/100cm² the remediation level should be 10µg/100cm². This would be to prevent a "yo-yo" effect, where a property could theoretically be decontaminated to a level close to 15µg/100cm² and then, either through further contamination or by discrepancy in testing, show results above the MAL again, and require further decontamination.

Many submitters that disagreed with the proposed remediation level suggested that there were minimal differences in costs between cleaning back to 15µg/100cm² and cleaning back to 5µg/100cm² or 1.5µg/100cm². Those that supported the proposed remediation level suggested there would be significant cost savings and that a clean back level of 1.5µg/100cm² imposed unnecessary costs when considered against the benefits.

Issue 3: Maximum inhabitable level of methamphetamine residue

Submitter views

Do you agree that the maximum inhabitable level of methamphetamine residue should be 30µg/100cm ² ?	
Yes	30.0 percent
No	56.7 percent
Not sure	13.3 percent

Do you think we considered the right options in coming to the proposed option for the maximum inhabitable level?	
Yes	42.0 percent
No	46.9 percent
Not sure	11.1 percent
Do you think a different level would be more suitable as a maximum inhabitable level? If yes, what level would you propose, and why?	
Yes	53.1 percent
No	28.1 percent
Not sure	18.8 percent
Do you think there will be any unintended consequences of setting the maximum inhabitable level of methamphetamine residue at 30µg/100cm ² , for example on different stakeholders? Please explain.	
Yes	72.9 percent
No	15.7 percent
Not sure	11.4 percent

While some submitters agreed with the proposed MIL, most submitters said the MIL should either be the same as the proposed MAL (15µg/100cm²), or that the proposed MIL and MAL were too high. Some submitters suggested the MIL should be set higher than 30µg/100cm², or that no level should be set.

Many submitters commented that setting the MAL and MIL at different levels was unintuitive or incoherent. These submitters said that the implication of the MAL is that any level of contamination above it could be harmful, and that the MIL should therefore also be set at this level. Many of these submitters said that, if implemented, the proposals would cause confusion for landlords and tenants about their obligations and rights where contamination is found at levels over 15µg/100cm² but below 30µg/100cm². Some submitters suggested the proposals imply that living in a property contaminated above the MAL is acceptable or that that proposals would leave tenants in a difficult situation, where they are unable to terminate the tenancy and obligated to stay in a contaminated property.

Submitters that believed the MIL should be set at a higher level, or that no level should be set, cited a lack of scientific evidence demonstrating that contamination at or above 30µg/100cm² is harmful. These submitters suggest that having your tenancy ended and homelessness pose greater-known risks than third hand exposure to methamphetamine, and that the ability to end a tenancy when the proposed MIL is exceeded was not justified by the balance of risks. Some submitters also said that the notice period for a landlord-

initiated tenancy termination should be extended, or that only tenants should be able to terminate a tenancy when the MIL is exceeded.

Some submitters raised concerns that the MIL set the bar too high for terminating a tenancy, and that landlords and tenants should be able to terminate a tenancy at lower levels.

Submitters were widely confused regarding why and how the proposed MIL had been derived, with many suggesting it was arbitrary. Submitters also widely cited advice from ESR that they do not consider there is sufficient evidence to define a MIL.

Submitters were invited to provide data on the frequency of residential tenancies testing above $30\mu\text{g}/100\text{cm}^2$. Evidence provided by submitters generally showed that a minority of tests positive for methamphetamine residue display levels above $1.5\mu\text{g}/100\text{cm}^2$. Above this, a small minority of tests were above $15\mu\text{g}/100\text{cm}^2$, while tests above $30\mu\text{g}/100\text{cm}^2$ were rare.

Issue 3a: Rent abatement

Submitter views

Do you have any comments about how rent abatement may impact on the parties, following permitted detailed testing showing that the level is over $30\mu\text{g}/100\text{cm}^2$, and on the basis that the tenant did not cause the contamination?

Most submitters agreed in principle that rent should stop when the MIL is triggered and a property, or parts of it, are deemed uninhabitable.

Some community housing providers and landlords thought that rent should stop at the point the tenancy terminates, rather than from the time notice of termination is given, as provided for by the RTA. These submitters felt this was reasonable, given tenants would have full use of the property until termination.

Some submitters suggested that there is a lack of clarity around the process, and that this could lead to an increased burden on the Tenancy Tribunal to resolve disputes. Some landlords and property managers also noted that without baseline testing for methamphetamine contamination, it could be difficult to prove responsibility for contamination. They suggest this could result in them unfairly stopping rental charges for tenants that they suspect are responsible for contamination.

Some submitters that supported the proposal suggested that its usefulness to tenants is limited because of the short notice period for termination. They also suggested the abatement provision will incentivise landlords to terminate tenancies when the MIL is exceeded, as landlords would expect not to receive rent and may view decontamination without tenants as an easier option. Many of these submitters suggested rent should also stop during decontamination where tenants are likely to face significant disruption.

Requirements for landlords

What was proposed

The discussion document proposed three key areas where landlords will be required to act in relation to methamphetamine contamination, in addition to proposing timeframes for action to take place:

1. Landlords would be required to engage an accredited professional testing contractor to carry out detailed sampling and analysis of premises for methamphetamine if either:
 - a. Police or the relevant local council advises there was, or it is likely that there was, methamphetamine manufacturing on the premises
 - b. a tenant or any other person (including the landlord) carries out a permitted screening test for methamphetamine residue in the premises in accordance with the regulations, and this has shown results higher than $15\mu\text{g}/100\text{cm}^2$.
2. If the results of the detailed sampling and analysis show that any part of the premises is contaminated over $15\mu\text{g}/100\text{cm}^2$, the landlord must ensure the premises are decontaminated using the prescribed process until premises test under or at $15\mu\text{g}/100\text{cm}^2$. The landlord can decontaminate the premises themselves or appoint anyone to carry it out on their behalf.
3. Landlords would be required to arrange professional re-testing of the premises following decontamination, to confirm they are now at or below $15\mu\text{g}/100\text{cm}^2$. To avoid conflict of interest, the tester and decontaminator must be separate entities.

If the property is untenanted, the discussion document proposed that these testing and decontamination actions can be undertaken at any time before a tenant moves in. If the property is tenanted, the timeframe for completing each of these three actions should be “as soon as practicable”.

Summary of responses

Submitters widely supported the proposals relating to requirements for landlords, with most agreeing that the right issues were considered in the proposal. Most agreed with the proposed situations in which landlords should be required to test for methamphetamine contamination, as well as the timeframes for this.

Those agreeing with the issues considered that the preferred option was a proportionate response to a serious but not widespread issue, which protected tenants in the event of contamination without placing unnecessary costs and burdens on landlords.

Those disagreeing that the right issues were considered often mentioned the need for further testing, particularly ‘baseline’ testing between tenancies.

Issue 4: When should landlords be required to test for methamphetamine contamination?

Submitter views

Acting on advice about manufacture – Do you agree that landlords should be required to professionally test for methamphetamine contamination in this situation? Why/why not?	
Yes	73.7 percent
No	21.1 percent
Not sure	5.3 percent
Acting on positive test results – Do you agree that landlords should be required to professionally test for methamphetamine contamination in this situation? Why/why not?	
Yes	77.1 percent
No	17.1 percent
Not sure	5.7 percent
Requirement to re-test – Do you agree that landlords should be required to arrange professional re-testing in this situation? Why/why not?	
Yes	81.4 percent
No	12.9 percent
Not sure	5.7 percent

Most submitters supported the proposals regarding when landlords should be required to test and re-test for methamphetamine contamination.

A small but wide range of submitters, including some landlords, property managers, methamphetamine testing and decontamination companies, community housing providers and industry bodies or associations, suggested that ‘baseline’ testing should be required between tenancies. They said it would provide assurances to parties, give evidence of responsibility for contamination if caused during a tenancy and encourage landlords not to “turn a blind eye” to the issue of methamphetamine contamination.

Submitters suggested additional circumstances where landlords should be required to test for methamphetamine contamination, with some submitters raising concerns that the suspicion grounds for requiring a test were too high. Additional suggestions for when a landlord should be required to test for methamphetamine contamination included:

- following a report from neighbours, family, friends, tradespeople, or wider social services suspecting methamphetamine use or manufacture at the premises
- where a tenancy has been terminated due to the tenant using or manufacturing methamphetamine on the premises

- when a tenant requests a test at the start of or during a tenancy.

Some submitters said that notification regarding methamphetamine manufacturing from Police or local council rarely occurs when it should. Some called for clarity on operational aspects of this process and others suggested the process should be mandated to improve confidence in the system.

Some submitters raised concerns about the possibility of excessive testing by landlords, or the use of testing as a form of harassment against a tenant. These submitters suggested there should be provision within the regulations to prevent this, for example, by preventing landlords from testing more frequently than every 4 or 12 weeks.

Submitters were largely unanimous in their support of the proposal for decontaminators and testers to be independent from one another. A minority of submitters did express concerns that enabling landlords to conduct screening assessments and not limiting who is able to undertake decontamination work may be at odds with this.

Issue 5: Testing and decontamination timeframes when tenants are living in premises

Submitter views

Do you agree with the proposed timeframes? Why/Why not? What alternative timeframes would you suggest? Do you have evidence about how long it currently takes to arrange a methamphetamine test or decontamination?	
Yes	61.2 percent
No	22.4 percent
Not sure	16.4 percent

A wide range of submitters agreed with the proposed timeframes, including community housing providers, landlords and property managers, methamphetamine testing and decontamination companies, as well as industry body or association organisations. These submitters acknowledged that availability of professional testers and decontaminators (where these are required) varies significantly across the country and that these factors are beyond the landlord’s control.

Some submitters, including a large property management company and industry body representing property managers, advocated for more specific timeframes. These submitters suggested the proposed wording of ‘as soon as practicable’ was too vague and would cause confusion among parties regarding their responsibilities, leading to disputes in the Tenancy Tribunal. Submitters also noted that non-specific timeframes could leave tenants feeling disempowered and may result in them living in contaminated properties for longer periods of time than is necessary.

Submitters said a specific timeframe could accompany provision for a failure to comply due to factors beyond the landlord's control, and that this could be easily proven by correspondence between a landlord and relevant methamphetamine testing/decontamination companies.

Submitters were asked to provide evidence of how long it takes to arrange professional methamphetamine testing and/or decontamination services. Though submitters noted there was no single source of information for this and that timings will vary, a wide range of submitters were able to provide an indication of timeframes, regardless of whether they agreed or disagreed with the proposals. Submissions suggest that testing for methamphetamine contamination can usually be conducted within one week.

Timeframes for decontamination were more varied, with many submitters noting this depends on contamination levels, property characteristics and geographic availability. Most submitters said decontamination could be completed within one to three weeks of engaging professionals. Other submitters suggested decontamination can be booked within two weeks to one month, with the process typically taking one to three weeks thereafter.

Testing for methamphetamine contamination

What was proposed?

The discussion document proposed different requirements for the two different stages of testing – screening assessment and detailed assessment.

Screening assessment

- Used to initially identify whether methamphetamine residue is present in a property or not.
- These must be conducted in accordance with Section 3 of NZS 8510:2017, with the exception that anyone will be able to undertake a screening assessment so long as they:
 - use screening technology/test kits that are approved and validated under the regulations or use accredited laboratory sampling equipment and analysis
 - follow all the instructions for the screening test chosen
 - take appropriate health and safety precautions.

Detailed assessment

- Detailed assessments are used to determine the extent of methamphetamine contamination in premises.
- These must be performed by qualified professionals, who either meet the competency requirements of section 7.2 of NZS 8510:2017, or who work for or on behalf of an accredited inspection body or laboratory. The samples taken from detailed assessment must be analysed at an accredited laboratory, either in Aotearoa or overseas.

The discussion document also sets out proposals for permitted and non-permitted types of tests for the purposes of the regulations. Permitted tests were proposed to be laboratory composites, individual sample tests, and validated test kits (noting that no validated test kits currently exist on the market). Non-permitted tests were proposed to be field composite tests and unvalidated test kits.

Summary of responses

Submitters were generally supportive of our proposals on testing for methamphetamine contamination.

Most agreed that anyone should be able to conduct a screening assessment, and a majority agreed that only qualified professionals should be able to do detailed assessments. The majority also agreed with proposals for permitted and non-permitted tests.

Issue 6: Who should be able to undertake testing for methamphetamine contamination, and what types of tests can be used

Submitter views

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	60.8 percent
No	36.5 percent
Not sure	2.7 percent
Do you agree that detailed assessment should only be able to be undertaken by qualified professionals?	
Yes	86.3 percent
No	9.6 percent
Not sure	4.1 percent
Proposal: Discrete/individual sampling plus laboratory testing, discrete/individual sampling plus laboratory composite testing, and accredited screening test kits are acceptable methods – Do you agree that these tests should be acceptable for the purposes of the regulations? Why/why not? Do you consider that any other types of tests should be acceptable under the regulations? Please explain.	
Yes	77.3 percent
No	10.6 percent
Not sure	12.1 percent
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	85.7 percent
No	7.1 percent
Not sure	7.1 percent
Proposal: Field composite tests and unvalidated testing kits are not acceptable methods of testing for methamphetamine under the regulations – Do you agree that these tests should not be acceptable for the purposes of the regulations? Why/why not?	
Yes	64.2 percent
No	20.9 percent
Not sure	14.9 percent

Most submitters supported anyone being able to perform screening assessments themselves, so long as they follow the instructions and take adequate safety precautions, with many favouring this as a fast and cheap way to determine if there is methamphetamine residue present or not.

Most of those who disagreed were methamphetamine testers and decontaminators and expressed concerns that this could undermine the reliability of screening assessments. They suggested it could lead to false negative results for contaminated properties, potentially leaving tenants exposed to high levels of residue. These submitters also felt that landlords had a conflict of interest, and that results could be easily manipulated through inappropriate testing approaches.

Submitters of all types, including larger industry bodies and associations, were overwhelmingly in favour of proposals for detailed assessments to only be performed by qualified professionals.

Most submitters agreed with the proposals for permitted and non-permitted tests. Some submitters suggested the lack of validated test kits or screening technology was problematic for the proposals, and that government should support the delivery of validated instant test kits so that parties can access a cost-effective and rapid screening assessment method. However, some submitters from the testing and decontamination sectors expressed doubts about the accuracy and reliability of instant test kits.

While a majority agreed with the types of tests that would not be permitted under the proposed regulations, many queried why field composite tests would not be permitted saying that, in the absence of validated test kits, they are the cheapest option currently available to conduct initial screening tests. In contrast, some submitters believed field composites weren't reliable and were not cost effective in the long run.

One submitter advocated for the installation of alarms designed to detect methamphetamine use and manufacture across all new publicly funded homes, all transitional homes and 6,000 existing homes over the next 2 years. They suggested this would reduce the need for testing between tenancies or when there was suspicion of use or contamination.

Decontamination process

What was proposed?

The discussion document proposes prescribing a decontamination process which incorporates most of section 4 of NZS 8510:2017 with some amendments, including alignment with the proposed maximum acceptable and remediation levels, and removing the requirement for carpets to be disposed of.

Property provided by the landlord that is integral to the premises, such as carpets, curtains, light fittings and any installed heating appliances are included in scope of these regulations and included in the decontamination process, but other general goods belonging to a landlord or tenant are not.

A landlord is proposed to be able to appoint any person to carry out decontamination work, including themselves. Health and safety obligations will continue to apply to the person carrying out decontamination works, in addition to relevant requirements set out in Section 4.2 of NZS 8510:2017. A professional post-remediation test would be required to show that contamination levels had been remediated to below 15µg/100cm².

The discussion document also proposes that tenants will not be required to move out during decontamination, as the RTA does not enable this. Therefore, any arrangements for tenants to move out of the property would have to be agreed informally.

Summary of responses

Submitters were broadly in favour of proposals for the decontamination process, with majority support across most issues.

Submitters expressed concern about the scope of the regulations for:

- property which is not integral to the premises
- the change in approach from NZS 8510:2017 to dealing with carpets and curtains
- the proposal to allow anyone to undertake decontamination work; and whether it is feasible for tenants to remain in the premises during decontamination.

Issue 7: Decontamination process

Submitter views

Do you agree with the proposed decontamination process?	
Yes	50.0 percent
No	32.9 percent
Not sure	17.1 percent
Do you agree with the proposals relating to property which is part of the premises? Why/ why not?	
Yes	55.6 percent

No	28.6 percent
Not sure	15.9 percent

Half of submitters agreed with the decontamination process, with many saying that it was practical and proportionate, and that it was flexible enough to allow for future innovative decontamination methods.

Submitters disagreeing with the decontamination process were largely comprised of landlords, property managers, and methamphetamine testing and decontamination companies. Some submitters said that there was no need for a prescribed process, so long as the remediation level of 15µg/100cm² is met and confirmed by a post-decontamination test. Many submitters from methamphetamine testing and decontamination companies said the process set out in NZS 8510:2017 should be adhered to and that replicating some but not all aspects in the regulations would be unnecessarily complex and create confusion. Submitters from these industries also said the proposals do not sufficiently provide for innovation and new technologies, or actively prevented it by including some decontamination techniques, such as ‘triple wash’.

Some community housing providers also requested clarity on encapsulation, and whether this was effective in addressing contamination, while a tenant advocacy body and a methamphetamine testing company expressed concern that landlords might use encapsulation as a substitute to decontamination.

Most submitters agreed with the proposals relating to property which is part of the premises. Some landlords and most submitters from methamphetamine testing and decontamination companies expressed concern at the proposals relating to carpets and curtains, suggesting there was insufficient evidence to support cleaning rather than disposing of them, as per NZS 8510:2017 recommendations.

Some submitters, particularly community housing providers and one tenant advocate organisation disagreed that tenant goods were out of scope, suggesting that these should also be decontaminated. Some landlords and property managers supported this, expressing concern that decontamination of the premises could be undermined by the presence of contaminated tenant goods.

Issue 8: Who should be able to do decontamination work

Submitter views

Do you agree that any person can carry out decontamination work?	
Yes	58.3 percent
No	34.7 percent
Not sure	6.9 percent

Most submitters agreed that anyone should be able to carry out decontamination work, with many commenting that there needs to be flexibility and that, particularly for low levels of contamination, decontamination is not necessarily complex or skilled work and can be done by anyone. Most submitters felt the proposed requirement for a professional post-decontamination test, to verify that the remediation level has been met, would provide sufficient quality assurance to enable anyone to undertake decontamination works.

However, submitters from methamphetamine testing and decontamination industries were unanimously against the proposal, saying that decontamination is skilled and complex work that laypersons won't have the knowledge or training to do. Many of the submitters acknowledged that there is currently no barrier to entry for people undertaking decontamination works but advocated for the introduction of a 'validation process' for this. These submitters were also concerned that the benefit of a Certificate of Clearance, issued as per NZS 8510:2017 guidance, would be undermined where a landlord was undertaking decontamination works, as they would be issuing themselves with a certificate.

One large industry association suggested that it would be essential for plain language guidance to be provided to enable non-professionals, such as landlords, to confidently undertake decontamination works themselves.

Issue 8a: Tenants remaining in properties during decontamination

Submitter views

Do you think it is workable for a tenant to remain living in the premises during decontamination work?	
Yes	27.5 percent
No	52.2 percent
Not sure	20.3 percent

Most submitters disagreed that it would be workable for tenants to continue living in the premises while decontamination works were being undertaken. Landlords, property managers and submitters from the methamphetamine testing and decontamination industries, who were unanimously against this proposal, accounted for around 89 percent of those disagreeing. Many said that having tenants onsite during decontamination is a safety hazard and may be at odds with the decontaminator's obligations as a 'person conducting a business or undertaking' (PCBU) under the Health and Safety at Work Act 2015.

However, many submitters believed it was practical for tenants to remain in the premises during decontamination. Most of these submitters, including most community housing providers, suggested this will vary, depending on the level of contamination and remediation action required. These submitters said it was appropriate for regulations to be flexible in allowing for both situations.

Tenant advocate organisations said that forcing tenants to leave the premises without a guaranteed alternative to enable decontamination posed greater risks to their wellbeing than the decontamination process would. They said tenants should be able to stay or, if required, move into temporary accommodation until the property is decontaminated, with appropriate rent reduction.

Submitters provided a range of responses when asked how this situation had been managed in the past. Most landlords and property managers said either that they had never encountered this situation, or that contamination had been discovered between tenancies, meaning decontamination took place in a vacant property. One large property management company said that tenants were moved into temporary accommodation and rent stopped for the period.

As above, most community housing providers said approaches were made on a case-by-case basis. In some cases, tenants were able to stay in the property, especially if the level of contamination was low, or only select rooms in the property that needed decontaminating. In other cases, the tenant had to move out temporarily.

Methamphetamine decontaminators said that they only decontaminate vacant homes.

Abandoned goods on contaminated premises

What was proposed?

The discussion document proposes that landlords must deal with abandoned goods on contaminated premises as if they are contaminated and outlines steps for landlords to follow when dealing with them. As with other abandoned goods, landlords may dispose of perishable goods and must make all reasonable efforts to contact the tenant to arrange a period to collect the goods. The proposals would only apply if the tenant was uncontactable or failed to collect the goods. The landlord may then choose whether to secure the goods in a safe storage and apply to the Tenancy Tribunal for an order setting out what to do with the goods, or they can follow the provisions set out below:

- The landlord must securely store personal documents belonging to the tenant, either by providing their own secure storage, or taking them to the nearest Police station. For other non-perishable goods, the landlord must make all reasonable efforts to assess the market value of the goods, against the likely costs of testing, decontamination (where possible), transport and storage for 35 days, and sale of those goods.
- If this assessment shows that the value of the goods is less than the sum of the above listed costs, then the landlord may securely dispose of the goods on the basis that they may be contaminated.
- If the assessment indicates the value of the goods is higher than the costs listed above, then the landlord must securely store the goods for at least 35 days.
- If the goods are still unclaimed after 35 days, the landlord must continue to store the personal documents belonging to the tenant (if these are not with the Police), and sell any other goods that have been decontaminated, re-tested and shown not to be contaminated, at a reasonable market price. If, before the landlord disposes of the goods, the tenant does claim the goods and/or documents, the landlord may require the tenant to pay their actual and reasonable costs. The landlord must release any goods and personal documents claimed by the tenant, subject to payment of costs. The tenant must give the landlord a receipt for any goods and personal documents released to them.

Summary of responses

Submitters were split regarding proposals for managing abandoned goods on contaminated premises. Those disagreeing with the proposals largely felt abandoned goods on contaminated premises held no value, and that it was unfair to make landlords responsible for them. In contrast, those agreeing felt the proposals were proportionate and appropriate, given the complex circumstances which could result in goods being abandoned.

Issue 9: Requirements for managing abandoned goods on contaminated premises

Submitter views

Do you agree with the proposed requirements on landlords for managing abandoned goods on contaminated premises?	
Yes	30.4 percent
No	47.8 percent
Not sure	21.7 percent
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	66.7 percent
No	21.2 percent
Not sure	12.1 percent

Landlords, property managers and methamphetamine testing and decontamination industry submitters accounted for the vast majority of those disagreeing, with many saying that goods abandoned on rental properties by tenants generally have little to no value, and that it was unfair to make landlords responsible for them. Most of these submitters believed landlords should be able to dispose of them immediately without penalty, particularly in circumstances where tenants had caused contamination. Some submitters also disagreed with proposals on the basis that existing requirements in the RTA for abandoned goods should be utilised, and that concerns around the safety of handling contaminated goods makes managing them in line with the proposals excessively challenging for landlords.

However, a wide range of submitters agreed with the proposals, including community housing providers, some landlords and property managers, tenant advocate organisations and large industry bodies or associations. These submitters said the proposals were considerate of the complex circumstances that may force tenants to temporarily abandon their property, and that it would not be proportionate or fair for tenants to automatically lose all their possessions under such circumstances.

Some submitters – including those that agreed and disagreed with the proposed process – noted that there would be practical challenges with the proposals, such as storage facilities refusing to accept contaminated goods. Submitters also noted it may be practically challenging or inappropriate to permit the sale of abandoned goods from contaminated premises which are difficult to test and decontaminate.

Some submitters made suggestions for additional proposals, including:

- prescribing a specific dollar value that the goods must meet for landlords to be required to test and store them

- allowing parties to mutually agree on the disposal and compensation of tenants' goods
- Māori taonga such as pounamu and korowai should not be disposed of, and if tenants do not collect them, a process should be established for returning them to local iwi.