



**MINISTRY OF BUSINESS,  
INNOVATION & EMPLOYMENT**  
HIKINA WHAKATUTUKI



# Regulatory impact statement

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## Protection of tenants and landlords from the effects of methamphetamine contamination

# Agency disclosure statement

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This Regulatory Impact Statement has been prepared by the Ministry of Business, Innovation and Employment.

It provides an analysis of options to protect tenants and landlords from the harmful and destructive effects of methamphetamine contamination in rental properties. The Minister for Building and Housing has asked the Ministry to address the immediate issue of protecting the health of tenants and prevent further damage to property in relation to methamphetamine contamination only. This Regulatory Impact Statement does not therefore consider how to address other risks to health and property.

Despite the high degree of public and media interest in methamphetamine contamination, the extent and level of methamphetamine contamination in rental properties has not been robustly quantified. This is because:

- the financial and legal implications of contamination act as a disincentive for landlords and tenants to self-report contamination
- there is no obligation on landlords to report contamination to local authorities
- there is currently no New Zealand Standard for contamination levels, or guidelines, for remediation.

A new Standard for methamphetamine contamination (NZS 8510) is currently under development. This Standard will enable landlords and the Tenancy Tribunal to determine whether a property is contaminated, and provide guidance on the most appropriate form of remediation. The recommendations in this analysis are contingent upon the creation and adoption of this Standard.

Due the limited time available, the Ministry has not analysed the commercial impacts of the proposals on the methamphetamine testing, remediation and detection industry in New Zealand.

This analysis does not cover issues of liability around methamphetamine contamination.

Consultation on the Government's proposals has been limited to discussions with the New Zealand Property Investors Federation and Housing New Zealand. Broader consultation is needed before finalising policy proposals.

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# List of Acronyms

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|      |   |
|------|---|
| MBIE | Ministry of Business, Innovation and Employment |
| NZS  | New Zealand Standard                            |
| RTA  | Residential Tenancies Act 1986                  |
| IANZ | International Accreditation New Zealand         |

# Executive summary

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Based on Police detection rates and national health surveys, the number of clandestine methamphetamine laboratories (around 80) and level of personal usage of methamphetamine (around 26,000 individuals) has remained roughly constant in recent years. Inevitably, these figures are subject to under-reporting, and are affected by the resources available to uncover unlawful activities.

In contrast, there has recently been strong public and media interest in the issue of methamphetamine contamination in rental and owner-occupied housing. There has also been a significant increase in Tenancy Tribunal decisions involving methamphetamine contamination.

The elevated public concern and profile may relate to the:

- well-publicised activity of Housing New Zealand in testing for, and remediating damage from, methamphetamine contamination
- high cost of forensic testing for methamphetamine – prior to and post remediation (in the range \$2,000 – \$5,000)
- significant cost burden of remediating damage caused by methamphetamine contamination (in the range of \$10,000 – \$50,000 per property<sup>1</sup> where methamphetamine has been manufactured)
- lack of definitive standards for assessing the level of contamination, or guidelines for decontamination
- growth of the methamphetamine testing and detection industry.

Under the Residential Tenancies Act 1986, a landlord has no specific right to enter and test for methamphetamine where a tenant is in place. Test samples can only be collected, or in-situ tests performed, where there is prior agreement with the tenant or the tenant agrees to a test.

The Government is considering policy proposals to protect tenants and landlords from the effects of methamphetamine contamination by introducing a specific right of entry for landlords (or their agents) and allowing for shorter tenancy termination notices where contamination is detected.

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<sup>1</sup> In some cases, demolition of the property may be necessary.

# 1 Status quo and problem definition

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## Current Environment

1. Methamphetamine, or crystal methamphetamine hydrochloride (pharmaceutically referred to as methylamphetamine or desoxyephedrine), is a powerful and highly addictive synthetic drug. Under the Misuse of Drugs Act 1975, methamphetamine is classified as a 'Class A' controlled drug – a drug that poses a very high risk of harm with significant penalties for offenders importing, manufacturing, distributing and possessing the drug.
2. According to a recent New Zealand Health Survey<sup>2</sup>, amphetamine use since 2011/12 has been constant, at around one percent of adults (which equates to 26,000 people). Making a crude assumption that there is no more than one amphetamine user per household, and based on 33 percent rental occupation<sup>3</sup>, this equates to methamphetamine usage in about 8,500 rental properties and 17,500 owner-occupied properties. The estimate does not take into account the prevalence of methamphetamine by tenure type because of the absence of supporting data.
3. Both acute (short-term) and chronic (long-term) health effects can arise from exposure to methamphetamine. Acute exposure effects may come about through direct contact with the product or waste and inhalation of the product or waste. Burns, tissue irritation and rashes can be the consequence of chemical spills and skin contact. Other health effects such as nausea, dizziness and headaches can result from the inhalation of vapours and gases<sup>4</sup>.
4. Methamphetamine is either imported or synthesised ('cooked') locally in makeshift laboratories<sup>5</sup>. There are anecdotal reports from Police that importation is on the rise and may be replacing local production. For example, in 2015, a combined total of 334 kg of methamphetamine was seized by Customs and Police. In comparison, in June 2016, 494 kg methamphetamine was seized in a single importation.
5. Local synthesis results in the contamination of the surrounding environment with toxic chemicals including: methamphetamine, phosphorous, lead acetate, compounds of iodine, mercuric chloride, toluene and ether. This contamination can cause health problems for people who, for example, buy a house that has served as methamphetamine laboratory or has had methamphetamine users living in it, or tenants who move into a property that is contaminated.
6. Since 2013/2014, the number of clandestine laboratories notified by Police<sup>6</sup> each year has remained approximately constant, at around 80. One independent testing company has evaluated 2,500 homes in the past two years and reported 500 cases of contamination where further testing or cleaning was required. In 2014, Housing New Zealand reported that 101 state houses had been contaminated with methamphetamine out of 196 that were tested. However

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<sup>2</sup> *Amphetamine use 2014/15: New Zealand Health Survey*, Ministry of Health, December 2015.

<sup>3</sup> *Dwelling and Household Estimates: September 2016 quarter*, Statistics New Zealand.

<sup>4</sup> *2010 Guidelines for the Remediation of Clandestine Methamphetamine Laboratory Sites*, Wellington: Ministry of Health.

<sup>5</sup> These clandestine labs are located in houses, garages, apartments, motel rooms, sheds and even motor vehicles.

<sup>6</sup> The Law Society estimated that Police currently only uncover 5 to 10 percent of the clandestine laboratories in operation each year.

none of these reports can be extrapolated or taken as representative statistics because they don't take into account the selective sampling method applied or use a common definition for 'contamination'.

7. Given that methamphetamine users could be occupying up to 26,000 properties, one would expect on-going contamination in approximately 1.5 percent of properties, rather than the 25 to 50 percent of properties inferred from the testing company or Housing New Zealand data. The actual percent of contaminated properties is likely to lie between these extremes.
8. There has been a significant increase in Tenancy Tribunal decisions involving methamphetamine contamination. In 2015, five cases involving methamphetamine contamination were brought to the Tenancy Tribunal. In comparison, in the period January-October 2016, 110 cases were brought to the Tribunal. Half (55) of these cases involved Housing New Zealand.
9. The historical and projected cost to the rental property industry and social housing providers is not known, however Housing New Zealand spent \$6m in the seven months to January 2016 testing for methamphetamine and cleaning when traces have been found. Annualised, this is over \$10m per year, up from \$700,000 in 2013. In the absence of a standard, it is not clear whether the actions of Housing New Zealand have been proportionate to the actual risk. Landlords are also concerned that they will be held responsible for not providing a property in a safe and healthy condition, which has led to industry bodies encouraging pre- and post-tenancy testing for contamination, or the installation of 'meth detectors'.

#### *Levels of contamination*

10. It is important to distinguish between property contamination through usage and manufacture of methamphetamine. The risk to health from contamination, and the cost of remediating a property, is generally far greater where manufacturing has taken place.
11. For example, if methamphetamine has been smoked occasionally in a property, the contamination level and health risk is equivalent to that from tobacco or cannabis smoking. In this instance, the remediation process can be a simple matter of washing hard surfaces in a systematic manner, and using personal protective equipment.
12. In contrast, where manufacturing has taken place, the health risks are high and remediation requires specialist equipment, very extensive cleansing, removal of wall linings/ceilings/carpets, or even demolition.
13. The meaning of 'contamination' and 'proportionate cleansing' regimes are disputed, which has led to confusion and has provided added impetus for the development of a New Zealand Standard. The Standard will assign significance to contamination levels and document appropriate remedial action. The Standard (NZS 8510) is expected to become available by April 2017.

#### *Approaches to detect and remediate for methamphetamine contamination*

14. The key steps and approaches to detection and contamination are summarised in Table 1. Test approaches differ in sophistication and, consequently, their detection limits and sensitivity levels vary. This can result in conflicting test results being received in respect of the same property tested at the same time.

**Table 1: Costs and Impacts of methamphetamine detection and remediation**

| Detection or Remediation step                             | Cost (approximate)   | Disruption to occupant   | Sensitivity and Accuracy                       | Skill level required   |   | Anticipated coverage in future NZ Standard (NZS 8510)  |
|---|--|--|--|--|---|--|
|   |  |  |  | Lay person<br>e.g. landlord or tenant  | Qualified professional  |  |
| Meth detectors (real-time detection and monitoring)       | Installation: \$300<br>Monitoring: \$50-\$60/month   | None   | Proprietary                                    | Û  | Ü   | Û  |
| Sampling for contamination (initial and post remediation) | Forensic - included in testing cost<br><br>Lay person - negligible   | Disruptive for forensic testing<br><br>Low for taking do-it-yourself swabs, but may be seen as intrusive | Accuracy of result heavily dependent on method | Possible, but sample may not be representative   | Ü   | Ü  |
| Do-it-yourself testing                                    | \$15-150   | Low  | Variable                                       | Ü  | N/A   | Û  |
| Forensic, scientific testing                              | \$2,000-\$5,000  | None, in laboratory  | Very sensitive and accurate                    | Û  | Ü<br>Accredited laboratory  | International Accreditation New Zealand (IANZ)   |
| Remediation and cleansing process                         | Dependent on contamination level<br><br>~ \$100s where the drug has been smoked at low levels<br><br>\$10,000 – \$50,000 per property where there has been a lab | Moderate<br><br>High   | N/A  | Yes, <u>if</u> New Zealand Standard is followed<br><br>Testing post cleansing would need to be performed by an independent, qualified practitioner | May be only practical option where there are high levels of contamination | Ü<br><br>Standard will recommend remediation processes appropriate to level of contamination |

15. Current testing cannot indicate precisely when contamination occurred or who is responsible. Care is required to avoid cross-contamination between an occupant’s possessions and the property itself, and between samples. The New Zealand Standard will lay out the required method for correct sampling prior to testing.

16. Tenants and home owners are able to test their property at any time using the above methods, if they suspect the previous occupant may have contaminated the property, or wish arrange for an independent test.

17. The Residential Tenancies Act 1986 (RTA) provides for a landlord to inspect a premises once in every four week period, having given the tenant 48 hours' notice and inspecting only between 8 am and 7 pm on any day (section 48(2)(b)). However the Act is silent on what activities are permissible during an inspection and does not specifically provide for the taking of samples during these inspections. Landlords must respect a tenant's right to quiet enjoyment of their property and must not "cause or permit any interference with the reasonable peace, comfort, or privacy of the tenant in the use of the premises by the tenant" (section 38(2)). A landlord who fails to comply with this section commits an unlawful act and is liable to exemplary damages of up to \$2,000.

## Problem Definition

### **Landlords do not have a specific right of entry to test for methamphetamine contamination**

18. Landlords do not currently have a specific right of entry to test for methamphetamine contamination under the RTA. This may be limiting landlords' ability to detect contamination in a timely manner and protect tenants and property from further exposure.
19. The Tenancy Tribunal considers that landlords may only test for the presence of methamphetamine during a routine inspection if testing has been agreed to by both parties in the tenancy agreement. Short of gaining such agreement, landlords do not have a specific right of entry to test for methamphetamine contamination.

### **Current tenancy termination provisions do not anticipate methamphetamine contamination**

20. If a tenant destroys, or so seriously damages, a premises as to render it uninhabitable, the landlord may terminate the tenancy with seven days' notice. For partial destruction, or if a part of the premises is rendered uninhabitable, the landlord must apply to the Tenancy Tribunal for a termination order.
21. The landlord can apply to the Tenancy Tribunal and seek compensation if the tenant has caused the destruction or uninhabitable state due to a breach (e.g. lost rent, decontamination, repairs and re-letting).
22. On the other hand, if the landlord has supplied a contaminated (and therefore uninhabitable) premises, the Tenancy Tribunal may award the tenant compensation.
23. Where a premises is so seriously damaged as to be uninhabitable, and neither the landlord nor the existing tenant has caused the damage, a landlord may terminate the tenancy with seven days' notice, or the tenant may give two days' notice.
24. There is anecdotal evidence that landlords are having difficulty using the current RTA provisions to obtain possession as it is difficult to satisfy the Tribunal that the current tenant is responsible for contamination if professional testing did not occur prior to their tenancy commencing. Where the test of a property being destroyed or partially destroyed is applied, the Tribunal does not always hold that methamphetamine contamination constitutes the need for the tenancy to end. Sometimes it is ruled that the tenant should be accommodated elsewhere until the property is cleansed.
25. The landlord can also apply to the Tenancy Tribunal for termination of a tenancy on the grounds that the tenants are using the premises for unlawful purposes. In practice, it is often difficult for landlords to prove that a premises is being used for an unlawful purpose and to establish a balance of probability and seriousness which will satisfy Tenancy Tribunal adjudicators that the threshold for termination has been reached. Furthermore, investigating and prosecuting an individual for criminal acts is a matter for the Police not the Tribunal.

# 2 Objectives and Criteria

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26. The objectives of the Government's policy proposals are to enable landlords to test for methamphetamine contamination while a property is tenanted, and take proportionate action to protect the health of the tenants and prevent further damage to their property.
27. The key outcome from these objectives would be to protect tenants and landlords from the harmful and destructive effects of methamphetamine contamination in rental properties.
28. The objectives relate to a set of four criteria. Options designed to achieve these objectives have been assessed against each of the criteria. These criteria comprise:
  - a) Privacy of tenants.
  - b) Health and safety.
  - c) Protection of the property from damage.
  - d) Transparency and Natural Justice.
29. Each option is assessed against the criteria with either a decrease arrow (↘), or an increase arrow (↗) to indicate degree that the option meets the relevant criterion as compared to the Status Quo. A horizontal line (→) indicates where the option ranks closely with the Status Quo. The recommended option is shaded grey in each case.

### 3 Options and Impact Analysis

Table 2: Options and Impact Analysis: Enable landlords to test for methamphetamine contamination in rental properties

| Option   | Criteria for Assessment of Options   |  |   |   |
|--|--|--|---|---|
|  | Privacy of tenants   | Health and Safety  | Protection of property from damage  | Transparency & Natural Justice  |
| <b>Status Quo</b>  | RTA maintains a balance between the right to privacy and appropriate access for landlords. Landlords may include, by mutual agreement, a contractual right to sample and test for methamphetamine. | With the exception of access in an emergency, the RTA makes no provision for specific access on the grounds of health and safety. The Health and Safety at Work Act 2015 requires landlords to protect the health and safety of individuals performing maintenance and repairs on their property, and to ensure that the property is left in a safe condition. Methamphetamine contamination can already be detected by installing detectors and pre and post letting testing.   | Landlords have the right to enter and inspect a property between certain hours, with 48 hours' notice. However the landlord does not have a right to take samples and is limited to one entry over a period of four weeks. The landlord can also enter with 24 hours' notice for the purpose of necessary maintenance and repairs. Methamphetamine contamination can already be detected by installing detectors. | Tenancy Tribunal has made decisions that landlords do not currently have right of entry to test for methamphetamine.  |
| <b>Option 1: allow entry of the landlord to take samples for methamphetamine contamination testing</b>         | Additional right of entry erodes the privacy of the tenant. Some landlords may deliberately misuse this right of entry for other purposes. <b>E</b>  | The quality of sampling and testing may not be adequate for accurately gauging the risk to health and may expose the landlord and tenant to further contamination. Entering a property where the tenants are suspected of using methamphetamine could expose the landlord to physical assault. <b>—</b>  | The quality of the sampling and testing may not be adequate for gauging the level of damage due to contamination, however it may signal possible problems. The existence of a right of entry may act as a deterrent to methamphetamine usage and manufacture. <b>A</b>  | Tenancy Tribunal will be clear on the landlord's right to entry. However there may remain uncertainty about the validity of the testing and why the test is being carried out. The landlord will not be seen as independent. The RTA does not impose any obligation on the landlord to advise the tenant of the test results; however it does require that the rental property be provided in a habitable condition. <b>A</b> |
| <b>Option 2: allow entry for a competent, independent individual to test for methamphetamine contamination</b> | Additional right of entry erodes the privacy of the tenant, however most tenants will likely accept a properly qualified individual <b>A</b>   | The quality of the sampling and testing will be adequate for gauging the risk to health and allow for rapid intervention. The organisation would be expected to follow health and safety protocols to protect staff. <b>C</b>  | The quality of the sampling and testing should be adequate for gauging the level of damage due to contamination, allowing definitive action to be taken. The existence of a right of entry may act as a deterrent to methamphetamine usage and manufacture. <b>C</b>  | Tenancy Tribunal will be clear on the tester's right of entry. The organisation would be expected to have sound protocol for communicating the purpose of their visit and the process involved. There will remain ambiguity on whether the tenant should be advised of the results. <b>A</b>  |
| <b>Option 3: allow entry a landlord (or their agent) to investigate health and safety hazards</b>              | Additional right of entry erodes the privacy of the tenant. Some landlords may deliberately misuse this right of entry for other purposes. <b>E</b>  | Health and safety hazards would encompass a wider range of concerns than methamphetamine contamination, e.g. functioning of smoke alarms, slip or trip hazards, electrical hazards and fire hazards. The responsibility for managing health and safety risks is shared between tenant and landlord but at present there is no explicit provision for a landlord to exercise this responsibility under the RTA. Introducing such a provision would require greater policy development and consultation in order to assess its potential value. <b>C</b> | By mitigating hazards (e.g. fire, explosion and chemical contamination) this provision would reduce property damage. <b>C</b>   | 'Health and Safety' is a very broad description and the reason for entry may not be made clear, or appear justified, to a tenant. <b>A</b>  |

**Table 3: Options and Impact Analysis: Allow for shorter tenancy termination notices in cases where rental premises are found to be contaminated and uninhabitable**

| Option   | Criteria for Assessment of Options   |  |   |
|--|--|--|---|
|  | Health and Safety  | Protection of property from damage   | Transparency & Natural Justice  |
| <b>Status Quo</b>  | <p>A tenant can give a landlord two days' notice to end a tenancy where the property is uninhabitable; the landlord must give seven days' notice.</p> <p>Health Act 1956 s.120C (1)(b) makes provisions for the cleanliness of a dwelling. Cleansing orders may be issued by a Council, prohibiting a premises from being used for human habitation. Council does not typically issue these orders unless contamination is notified by the Police.</p> | <p>The RTA has provisions for terminating a tenancy where: the tenant has caused, or threatened to cause, substantial damage or rendered it uninhabitable (seven days' notice)</p>   | <p>RTA has provision for terminating a tenancy where:</p> <ul style="list-style-type: none"> <li>- the premises is used for unlawful purposes</li> <li>- the tenant has caused, or threatened to cause, substantial damage or rendered it uninhabitable (seven days' notice)</li> <li>- there is a breach of a tenancy agreement that can't be remedied.</li> </ul> <p>Landlords do not have a right to terminate tenancies with immediate effect, they must abide by notice periods set by Tenancy Tribunal. The Tenancy Tribunal commonly requires a higher standard of proof to issue termination orders where it is alleged that a premises is used for unlawful purpose.</p> <p>There is a 'Right of Appeal' which applies to tenants who disagree with a termination notice</p> |
| <b>Option 1: Allow a seven day termination notice in case of methamphetamine contamination (where testing employs DIY kits)</b>                | <p>The quality of sampling and testing may not be adequate for accurately gauging the risk to health and would not represent a sufficient standard of proof should the notice of termination be challenged.</p> <p>Not clear that indications from DIY kits would be comparable with levels specified in the NZS.</p> <p style="text-align: center;">—</p>   | <p>The quality of sampling and testing may not be adequate for gauging the level of damage due to contamination. Shorter termination would however allow more accurate testing to be expedited.</p> <p>The possibility of a short termination notice may act as a deterrent from using or manufacturing methamphetamine. However the damage that could be caused by manufacturing during the seven day notice period could be significant.</p> <p style="text-align: center;">Ã</p>  | <p>Without independent testing the tenant would likely feel that the test lacked credibility and would challenge any termination notice. Tenants might feel aggrieved that the process lacked transparency and they had not had recourse to a fair hearing.</p> <p style="text-align: center;">È</p>  |
| <b>Option 2: Allow a seven day termination notice in case of methamphetamine contamination (where testing meets NZS approach)</b>              | <p>The quality of the sampling and testing will be adequate for gauging the risk to health and allow for provide grounds for rapid intervention.</p> <p>It will be difficult to verify that a landlord has understood and followed the NZS. In practice this will mean that in most cases a competent professional will need to carry out the test.</p> <p style="text-align: center;">Ç</p>   | <p>The quality of the sampling and testing should be adequate for gauging the level of damage due to contamination.</p> <p>The possibility of a short termination notice may act as a deterrent from using or manufacturing methamphetamine. However the damage that could be caused by further manufacturing during the seven day notice period could be significant. The use of professional testing organisation may take significantly longer than the seven day notice period.</p> <p style="text-align: center;">Ç</p> | <p>Tenancy Tribunal will likely accept any testing which meets the NZS approach and uphold a notice of termination.</p> <p>Tenants are also likely to accept the result of testing by the NZS approach if undertaken by an independent, competent practitioner; however they are less likely to consider they have received natural justice where the landlord or related party has carried out the test.</p> <p style="text-align: center;">Ã</p>  |
| <b>Option 3: Allow an immediate termination notice where a premises poses a risk to health and safety (and cannot be immediately remedied)</b> | <p>Whether or not the tenant causes a premises to be uninhabitable, it would be reasonable to serve an immediate termination notice in order to minimise damage to the tenant's health. Methamphetamine contamination would be one example, but there are other life threatening hazards such as exposed electric conductors, airborne asbestos, gas leakage, and high levels of toxic mould.</p> <p style="text-align: center;">Ç</p>                 | <p>By mitigating hazards (e.g. fire, explosion and chemical contamination) this option would reduce property damage.</p> <p style="text-align: center;">Ã</p>  | <p>The grounds for termination would need to be very clear to the tenant, and notice could only be issued where the premises could not be made habitable with the tenant in place.</p> <p>The standard of proof would need to be high in each case i.e. a competent independent practitioner, such as an electrician, fire service official, Police, methamphetamine tester, or public health official.</p> <p style="text-align: center;">Ã</p>  |

## Other considerations

30. The adoption of a testing regime involving independent, competent practitioners is likely to be significant cost burden on landlords and favour the growth of companies operating in this area. It may also financially impact on companies installing and monitoring methamphetamine detectors. In making legislation it is important that there is a genuine need for these services and the demand is not being driven by the industries themselves (or media-affected public perceptions).
31. There is currently no accreditation process for methamphetamine remediation practitioners. Establishing an accreditation process would require industry and government to define industry training needs and work through funding mechanisms. This would be considered during the implementation stage.
32. The impact of these proposals on property (landlord) and renters insurance has not been considered due to lack of time and information.
33. The results of methamphetamine testing will be subject to recent decisions around tenant liability<sup>7</sup> following the Court of Appeal's decision in *Holler and Rouse v Osaki and Anor* [2016] NZCA 130 in April 2016 and the Tenancy Tribunal's subsequent Practice Note in August 2016.

# 4 Consultation

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34. There have been informal discussions with the New Zealand Property Investors Federation. The Federation was keen to ensure that any legislation was in the best interest of tenants and landlords, and was not driven by the testing industry itself.
35. Housing New Zealand has expressed support for allowing landlords a specific right of entry to test for methamphetamine and shorter notice periods in the case of contamination.
36. There has been widespread public discussion of the issues.

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<sup>7</sup> The Court of Appeal ruled that tenants are immune from a claim by the landlord where the rental property suffers loss or damage caused carelessly or negligently by the tenant or tenant's guest – to the extent provided in sections 268 and 269 of the Property Law Act 2007.

# 5 Conclusions and recommendations

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37. There is merit in allowing landlords (or their agents) greater ability to enter and test for methamphetamine contamination in tenanted properties. The benefits include protection of the health and safety of tenants and protection from costly damage to property.
38. Care needs to be taken to implement these changes while safeguarding:
  - the privacy of tenants (due to misuse of entry by landlords)
  - transparency and a sense of natural justice.
39. To retain the benefits while maintaining the safeguards, the preferred approach is to allow a specific right of entry to test for methamphetamine using only competent, independent practitioners who follow the NZS 8510. This may add to the short-term costs to landlords; however it will see less challenge to notices of termination, greater confidence in the process, and lower potential legal costs in the long term.
40. It is recommended that two new provisions be introduced into the Residential Tenancies Act 1986 to allow for:
  - a. a specific right of entry for an independent, competent practitioner to test for methamphetamine contamination in accordance with NZS 8510
  - b. shorter (seven day) tenancy termination notices where methamphetamine contamination levels exceed those specified in NZS 8510.
41. It is not recommended that a broader right of entry to test for hazards to health and safety be introduced without detailed policy development.

# 6 Implementation plan

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42. The proposed options would be implemented through amendments to the Residential Tenancies Act 1986.
43. These amendments will affect both existing and new Tenancy Agreements. MBIE would provide information to landlords and tenants about the new provisions and the impact on their Tenancy Agreements. Communication would make use of established channels such as:
  - the website <https://www.tenancy.govt.nz/>
  - the *Landlord Newsletter* (self-subscribed)
  - Tenancy Bond correspondence
  - the Tenancy Services service centre.
44. MBIE will engage with a wide cross-section of sector groups such as the New Zealand Property Investors Federation, tenancy advocacy organisations, property management organisations and Citizens Advice. MBIE will also update its guidance material, including the standard Tenancy Agreement, to reflect any changes that are necessary.
45. Disputes over the responsibility for contamination and liability for damage will continue to be processed through the Tenancy Tribunal.
46. All the necessary mechanisms for enforcement are in place through the Tenancy Tribunal and MBIE enforcement functions.
47. Provisions for the testing for methamphetamine would not come into force until after the New Zealand Standard for testing is approved and released (provisionally scheduled for April 2017).

# 7 Monitoring, evaluation and review

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49. A monitoring and evaluation plan will be developed once the regulations have been agreed. This plan will leverage off existing monitoring and evaluation activity associated with recent (2016) amendments to the RTA and associated regulations.
50. Other avenues for reviewing the effectiveness of the proposals would include monitoring MBIE Service Centre calls and Tenancy Tribunal decisions relevant to methamphetamine contamination.