

Methamphetamine Update

NZS:8510 vs Gluckman

October 2018

Methamphetamine

One of the most topical issues facing New Zealand landlords is that of Methamphetamine or 'P' as it is commonly known. There is a lot of misinformation around the subject especially regarding the need to test a property and what levels of contamination are being viewed as the maximum allowable limit for a property to be habitable.

Investors need to understand the issue and the risks that still remain in place as the consequences can be costly if you get it wrong.

This guide is designed to explain what we believe to be best practice and a low-risk approach for landlords.

What do landlords need to know?

In New Zealand, methamphetamine use and production is an unfortunate reality that doesn't appear to be on the decline with studies showing levels of use and ease of access to the drug are on the rise.

Damage caused through the use and production of this drug can lead to serious issues for the health of those in an affected property as well as financial implications for owners involved with remediation and clean-up.

Insurance companies across the country have, in large, adapted their policies off the back of massive claim payouts related to this issue over the last few years. This has led to in some cases a requirement to test, increased premium costs, higher excess amounts and a lowering of claim caps to levels where in many instances your cover may not pay for all remediation costs. We recommend all landlords are clear on what cover they have and what conditions apply for that cover to remain in place e.g. baseline testing requirements.

NZS:8510 vs Gluckman Report

One of the biggest issues landlords currently face in regards to Methamphetamine is the conflicting advice and opinions around exactly what the rules are. At the time of printing (October 2018) there are two schools of thought and two recommendations around how the issue of contamination should be dealt with. These are the pre-existing NZS:8510 standards and a more recent report released by the then Chief Science Adviser to the Prime Minister, Professor Sir Peter Gluckman.

It is important to note that the Institute of Environmental Science and Research (ESR), a Crown research institute who consulted to the government and were involved in the development of the NZS:8510 standards, still stand by these standards and recommended levels (1.5 µg/100 cm²) despite what the Gluckman report states.

NZS:8510

In June 2017 Standards New Zealand released the NZS:8510 standards which placed significant guidance on methodologies, procedures and other materials to ensure the industry had a consistent approach to managing the testing and decontamination of affected properties. This guidance filtered down and was adopted by testing laboratories, environmental regulators, councils, and insurers, many of whom still adhere to this standard as 'best practice'. In a nutshell, the standards brought in three key changes and requirements:

- Maximum allowable contamination levels for properties that are in line with current worldwide standards, being:
 - 1.5 µg / 100 cm² in any high use area
 - 3.8 µg / 100 cm² in any limited use area
- Requirements for a clear separation of duties between those who test for contamination and those who are involved with the cleaning and remediation of affected properties.
- Requirements for testing personnel and their employers to be professionally accredited.

For more information on NZS:8510 see the Standards New Zealand website (www.standards.govt.nz).

The Gluckman Report

In May 2018, Professor Sir Peter Gluckman released his report 'Methamphetamine contamination in residential properties in New Zealand: Exposures, risk levels, and interpretation of standards'.

This report challenged the NZS:8510 standards and their suggested maximum allowable contamination level of 1.5 µg / 100 cm². The report suggests that:

- Third-hand exposure to methamphetamine smoking residues on household surfaces (where production has not occurred) does not necessarily elicit an adverse health effect to occupants.
- The NZS:8510 clean up standard of 1.5 µg / 100 cm² should not be regarded as a health risk and exposure to levels below 15 µg / 100 cm² would be unlikely to create adverse effects.
- Remediation according to the NZS:8510 standards is appropriate only for properties where contamination is at high levels and has been identified as coming from a meth lab (production).

For more information on the Gluckman Report see the website of the Prime Minister's Chief Science Adviser (www.pmcsa.org.nz/publications)

Methamphetamine testing - Is it still required?

Neither the NZS:8510 standards or the Gluckman report place a legal requirement for methamphetamine testing onto landlords, rather they provide guidelines for levels of contamination a property must fall under - and each with its own suggested level.

When considering whether or not to test your rental property for methamphetamine contamination Ray White advise all landlords to consider two key questions.

- What does your insurance policy require in order for cover to remain in place?
- What is your appetite for risk and ability to cover remediation costs in a worst-case scenario?

Irrespective of The Gluckman report findings most insurers still require a pre-tenancy baseline test be completed in order for your cover to be in place if contamination is found. Most insurers are also still using the NZS:8510 guidelines of 1.5 µg/100 cm² as their maximum allowable limit for a habitable property.

The Tenancy Tribunal have indicated that in situations where contamination has occurred solely through personal use, they will look to adopt the Gluckman report standards of 15 µg/100 cm²

This information is correct at the time of printing (October 2018), however, we recommend you check your policy wording carefully and speak with your insurer if you have any questions or concerns.

A baseline test between tenancies is still the only way to provide clear evidence of liability and accountability for any contamination in a situation where it occurs. It also acts as a deterrence for such behaviour.

Where you may be liable for cleanup of your property and wish to hold those responsible accountable for these costs and damage, you must be able to provide evidence to clearly show who caused the problem - no matter what maximum level you adopt (NZS:8510 or Gluckman).

What are best practice steps for landlords?

We advise that a pre-tenancy baseline test is still the most effective way to help protect your investment. It is the only way to identify any drug presence prior to a tenancy beginning or at the conclusion of any tenancy.

A 'no presence detected' baseline test remains the only way for landlords to ensure they are positioned correctly to help place liability onto those who caused any contamination, should it occur.

If any contamination is found to be present above the NZS:8510 maximum allowable levels (1.5 µg / 100 cm²) we recommend landlords seek professional advice from their property manager at that time to clarify where the current industry position lies.