

House of Representatives

Supplementary Order Paper

Tuesday, 23 July 2019

Residential Tenancies Amendment Bill (No 2)

Proposed amendments for the consideration of the Committee of the whole House

Key:

- **this is inserted text**
- **~~this is deleted text~~**

Note: This Supplementary Order Paper shows amendments to the Bill that are being proposed by the Minister for the purposes of consideration in Committee of the whole House. This document does—

- **NOT have official status in terms of unamended text**
- **NOT have the status of an as-reported version of the Bill.**

Explanatory note

This Supplementary Order Paper (**SOP**) proposes amendments to the Residential Tenancies Amendment Bill (No 2) (the **Bill**), which amends the Residential Tenancies Act 1986 (the **principal Act**).

Amendments to *clause 2* mean that—

- many provisions will now come into force 28 days after Royal assent, including—
 - most of *Part 1*;
 - the provisions in *Part 2* that give the landlord a right of entry into premises and boarding rooms to test for the presence of contaminants and require the landlord to provide the tenant with testing results (including where boarding house shared facilities are tested);
- the provision for most of *Part 2* to come into force by Order in Council is continued, but the long-stop date (on which any provision that is not brought into force earlier automatically comes into force) is extended to 18 months after Royal assent. This reflects changes to the regulation-making powers relating to contaminants and the anticipated time needed to make regulations;
- a few provisions will come into force on the day after Royal assent, including—
 - *clause 4A(IAAA) and (IAAB)*, which relates to clarifying the number of times that the landlord needs to sign the tenancy agreement;
 - *clause 37*, which inserts regulation-making powers relating to contaminants and a provision relating to the power to set healthy homes standards (which will be inserted into the principal Act by the Healthy Homes Guarantee Act 2017 on 1 July 2019);
 - the transitional provisions in the *Schedule*.

Part 1 overview

Amendments in this SOP to *Part 1* of the Bill—

- relate to the landlord’s obligation to provide the tenant with information about the insurance of the premises that is relevant to the tenant’s liability for destruction of, or damage to, the premises; and
- relate to the tenant’s liability for destruction of, or damage to, the premises; and
- make other small and technical amendments.

Part 1—Information about insurance

The main changes relating to the landlord’s obligation to provide insurance information to the tenant are in *clauses 4A, 6, and 14*.

This SOP does not change the general proposal that, if the premises are not insured, the landlord will be required to state that in the tenancy agreement (except for a change for some social housing provider tenancies on a transitional basis—*see notes*

below on *new clause 19 of Schedule 1AA*, inserted by the *Schedule*). However, if premises are insured, amendments to *clause 4A, new section 13A(2)* require the landlord's statement in the tenancy agreement to set out the amount of the relevant excesses under each relevant insurance policy, and (unless the landlord has already provided the tenant with a copy of the policy) the statement in the tenancy agreement must also inform the tenant that a copy of the policy is available on request. If anything changes so that the insurance information provided is no longer correct, the landlord must provide the correct information in writing to the tenant within a reasonable time of the landlord becoming aware of the change, and failure to do so will be an unlawful act.

New clauses 6 and 14 follow on from *new section 13A(2)*, amending sections 45 and 66J to require the landlord to provide the tenant with a copy of the insurance policy if requested and to correct the information provided if anything changes (within a reasonable time of becoming aware of the change). Again, failure to do so will be an unlawful act.

Clause 23(1) is amended to provide for the new unlawful acts under sections 45 and 66J referred to above.

Part 1—Tenant liability

The main change relating to the tenant liability provisions of the Bill is in *clause 7*, where *new section 49B(1)(c)* is deleted. *New section 49B(1)(c)* provided that a tenant was not excused from liability for damage to, or destruction of, the premises in situations where any insurance moneys that would have been payable were irrecoverable because of an act or omission of the tenant or a person for whom the tenant was responsible. Its deletion means that the tenant's liability for damage or destruction caused carelessly by the tenant or a person for whom the tenant is responsible will generally be limited to a maximum of 4 weeks' rent (or 4 weeks' market rent, if the tenant pays an income-related rent). However, there will still be some situations where that limitation will not apply, such as where the careless act or omission is also an act or omission that constitutes an imprisonable offence and occurs on or about the premises.

Related amendments are made in *new section 49B(3A)(a)* and to *new section 49B(7)(a)(iii)*.

Also in *clause 7, new section 49B(3A)(b)* is inserted to cross-refer to *new clause 19 of Schedule 1AA* (which will be inserted by the *Schedule* of the Bill). See notes below on the effect of that new clause.

In *clauses 5 and 15*, small changes have been made to more clearly point to the tenant liability provisions relevant to contraventions of section 40(2)(a) or 66K(2)(a).

Part 1—Other

Technical amendments are made that relate to the timing of the Bill and the fact that provisions of the Healthy Homes Guarantee Act 2017 will come into force on 1 July 2019 amending some of the same provisions of the principal Act as are amended by

this Bill. These technical amendments are found in *clauses 4(3), 4A(1), and 23(IAA)*, and *clauses 23A and 39* are consequentially deleted.

Technical changes are made to section and clause numbering in *clause 22 and the Schedule*, consequential on provisions now added to the principal Act by the Residential Tenancies (Prohibiting Letting Fees) Amendment Act 2018.

The change made in *clause 4A(IAAB)* clarifies the number of times a landlord needs to sign the tenancy agreement, and *clause 4A(IAAA)* is related.

Part 2

Part 2—Contamination and new landlord obligations

Part 2 of the Bill enables, among other things, the prescribing of levels at which premises became contaminated and different testing methods and decontamination processes for different levels of contamination. Amendments in this SOP to *Part 2* of the Bill include amendments that—

- enable levels of contamination to be prescribed relevant to determining whether damage by contamination is so serious as to cause premises to become uninhabitable for the purposes of *new section 59B*. See *clause 37, new section 138C(1)(aa)*, and *clauses 29A to 30*:
- require a landlord to comply with all requirements in respect of contaminants imposed by regulations made under *new section 138C(1)(ab)*. The requirements that can be imposed relate to the circumstances where premises must be tested, testing methods, and decontamination processes. See *clause 26(IAA)*, *new section 45(1)(bd)*, and *clause 32A(1), new section 66I(1)(bc)* for boarding house tenancies:
- protect a landlord who complies with those prescribed requirements from liability to the tenant, for example, for not having provided the tenant with clean or habitable premises, if it is later discovered that a contaminant is, in fact, present at the premises (whether at contamination level or lower). See *clause 26A, new section 45A* and *clause 32B, new section 66IA*:
- extend the obligation formerly proposed by *new section 45(IAA)* (now *new section 45(IAAB)(a)*), which requires a landlord not to provide the tenant with premises the landlord knows to be contaminated. Former *new section 45(IAA)* would have applied only at the start of the tenancy; the amendments extend the obligation to a situation where a landlord discovers, during a tenancy, that the premises are contaminated. If the tenancy is to continue, the landlord will be required to decontaminate the premises (unless, in the case of tenancies other than boarding house tenancies, and as is the case for other damage, the contamination results from a breach by the tenant). Decontamination would need to be in accordance with a prescribed process. See *clause 26(1) and (3), new section 45(IAAB)(b)* and amendments to section 45(3) and (4) (and see *clause 32A(2), new section 66I(1B)(b)* for boarding house tenancies).

Part 2—Rights of entry

Clause 27 amends section 48 of the principal Act, which relates to the rights of entry of a landlord (other than the landlord of a boarding house). The amendments to *clause 27* provide the landlord with a specific right of entry for the purpose of decontaminating premises and ensure that, if a decontamination process is prescribed, 1 notice period would apply for all aspects of that process (including any pre-decontamination assessment and testing prescribed as part of that process). The notice period of at least 24 hours before the intended entry is consistent with the existing notice period under section 48 for carrying out necessary repairs.

In *clause 34*, technical amendments ensure that, if a landlord gives notice to enter a boarding room to test for contaminants, the tenant is told which contaminants are being tested for, regardless of whether the testing is being done because regulations require the landlord to test or because the landlord has chosen to test.

Part 2—Premises uninhabitable due to contamination

Clause 30 inserts *new section 59B* into the principal Act. *New section 59B* will apply in respect of contaminants, in place of existing sections 59 and 59A (which relate to premises that become uninhabitable due to damage or destruction), if regulations prescribe the level of contamination above which premises become uninhabitable and testing by a prescribed method establishes contamination above that level. *New section 59B* will generally treat premises that test above that maximum habitable level as wholly uninhabitable except where the contamination is not caused by landlord or tenant breach and is only established, above that level, in a physically separate or closed part of the premises (so as to be likely to prevent spread) that is inconsequential to the tenant's use of the premises as a residential tenancy. *New section 59B*, which is to some extent modelled on existing sections 59 and 59A, sets out, for example, who can give notice terminating a tenancy, the period of notice, and when the rent abates.

Clauses 28, 29, 29B, 31, and the amendment in *clause 29A* are consequential and related to *clause 30, new section 59B*.

Part 2—Other

Clauses 30A and 33 contain minor drafting clarifications.

Clause 36B amends section 78 of the principal Act, which sets out orders that the Tenancy Tribunal may make in relation to disputes between landlords and tenants. These orders include work orders. A work order is an order requiring work (for example, repairs) to be carried out at premises. If the Tenancy Tribunal makes a work order, section 78(2) requires or permits (depending on whether the work order is made by consent) the Tribunal to make an alternative order requiring a party to pay money to the other. The amendment disapplies section 78(2) in cases where the work order relates to decontamination.

Clause 37 is now expressed as replacing section 138C of the principal Act (which will be inserted into the principal Act by the Healthy Homes Guarantee Act 2017 on

1 July 2019). The replaced provision is replicated (with changes referred to below), as *new section 138D*, at the end of *clause 37*. *New section 138C* to be inserted by this Bill contains regulation-making powers relating to contaminants. Some of the amendments in this SOP to *new section 138C* are discussed above under the heading “*Part 2—Contamination and new landlord obligations*”. Other amendments include amendments that—

- reflect that decontamination processes may be needed for various purposes under the Act (for example, for premises or parts of premises, or for dealing with goods left on abandoned premises):
- allow rules to be made about how premises are to be decontaminated around a sitting tenant (for example, time frames for beginning and completing a decontamination process):
- remove the formal requirement for the Minister to have regard to the relevant New Zealand Standard before recommending the making of regulations under *new section 138C(1)*:
- make plain that different regulations may be made to respond to different ways in which premises, or different aspects of premises (such as surfaces), may have or may become contaminated (for example, in the case of methamphetamine, through use or manufacture):
- define premises for the purpose of the section. A reference to premises in relation to a boarding house tenancy already includes the facilities of the boarding house; however, *new section 138C(4)* makes it clear that premises, as used in *new section 138C* in respect of tenancies other than boarding house tenancies, also includes facilities. This is consistent with various obligations of the landlord (for example, under section 45).

The amendments in *new section 138D* relate to the power to set healthy homes standards that will be inserted into the principal Act by the Healthy Homes Guarantee Act 2017 on 1 July 2019, and allow the healthy homes standards to provide that regulations in force under section 120C of the Health Act 1956 (in particular, the Housing Improvement Regulations 1947) do not apply in relation to premises that are subject to residential tenancies. (Note that the reference in *new section 138D(2)* to section 138B(7) is a reference to *new section 138B(7)* that will be inserted, on 1 July 2019, into the principal Act by section 6 of the Healthy Homes Guarantee Act 2017.)

Clause 38(2) reflects the fact that the landlord failing to comply with prescribed requirements in respect of contaminants will be an unlawful act. The maximum amount that a landlord may be ordered to pay as a sum in the nature of exemplary damages for a breach of any of these contamination obligations is \$4,000. This is the same maximum amount that a landlord may be ordered to pay for an unlawful act that is a breach of the landlord’s other obligations under section 45(1) (or boarding house equivalent sections), for example, obligations in relation to cleanliness or maintenance. *Clause 38(1)* is amended, consequential to other changes made to *clause 26* and by the insertion of *clause 32A*.

Schedule

In the *Schedule* of the Bill, which inserts *new Part 4 into Schedule 1AA* of the principal Act,—

- technical changes are made to the Part and clause numbering, given the passage of the Residential Tenancies (Prohibiting Letting Fees) Amendment Act 2018:
- *new clause 16(2)* is a consequential insertion relating to *new clause 19*.

The main change to the *Schedule* is the insertion of *new clause 19*. *New clause 19* applies in circumstances where—

- Housing New Zealand Corporation or a registered community housing provider (the **housing provider**) is the landlord of residential premises that the housing provider itself leases from someone else under a Property Law Act 2007 lease that was entered into before the coming into force of *clause 4A* of the Bill, including under a renewal of that lease; and
- the housing provider does not have a right to require its landlord to provide it with the necessary insurance information.

If *new clause 19* applies,—

- *new sections 13A(2) to (4), 45(2B) to (2D), and 66J(5) to (7)* (which relate to the provision of insurance information) are disapplied; and
- the tenant's liability limit under *new section 49B(2)* (which relates to the tenant's liability for careless acts or omissions) will be an amount of 4 weeks' market rent (if the tenant pays an income-related rent) or otherwise 4 weeks' rent under the tenancy agreement.

New clause 20, inserted by this SOP in the *Schedule*, provides a short transitional provision needed for where *new clause 19* ceases to apply and the tenancy agreement is continuing.

Department disclosure statement

The Ministry of Housing and Urban Development is required to prepare a disclosure statement to assist with the scrutiny of this Supplementary Order Paper. The disclosure statement provides access to information about any material policy changes to the Bill and identifies any new significant or unusual legislative features of the Bill as amended.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=sop&subtype=government&year=2019&no=254&>

Regulatory impact assessment

The Ministry of Business, Innovation, and Employment produced a regulatory impact assessment to help inform some of the new policy decisions taken by the Government relating to the contents of this SOP.

A copy of this regulatory impact assessment can be found at—

- <https://hud.cwp.govt.nz/residential-housing/tenancy-and-rentals/changes-to-the-residential-tenancies-act-1986/residential-tenancies-amendment-bill-no-2/>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

The Honourable Kris Faafoi, in Committee, to propose the amendments shown in the following document.

Hon Kris Faafoi

Residential Tenancies Amendment Bill (No 2)

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Residential Tenancies Amendment Act **2017**.

2 Commencement

- (1) ~~Part 2~~ (other than ~~sections 25(1), 27, and 34~~) comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more orders may be made bringing different provisions into force on different dates.
- (2) The rest of this ~~This~~ Act comes into force on the day after the date on which it receives the Royal assent, as follows:
 - (a) sections 1 to 3, 4A(1AAA) and (1AAB), 22, and 37 and the Schedule come into force on the day after the date on which this Act receives the Royal assent;
 - (b) the rest of Part 1 and sections 25(1), 27(1) and (2), 33, and 34 come into force on the 28th day after the date on which this Act receives the Royal assent;
 - (c) the rest of Part 2 comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more orders may be made bring-

ing different provisions into force on different dates and appointing different dates for different purposes.

- (3) Any provision of this Act that may be brought into force under **subsection (1) (2)(c)** and that is not in force on the first anniversary of expiry of the 18-month period that starts on the date of Royal assent comes into force then on the expiry of that 18-month period.

3 Principal Act

This Act amends the Residential Tenancies Act 1986 (the **principal Act**).

Part 1

Amendments relating to tenant liability and premises unlawful for residential use

4 Section 2 amended (Interpretation)

- (1) In section 2(1), insert in their appropriate alphabetical order:
- section 78A work order** means a work order made against the landlord in relation to a matter in which **section 78A** applies
- unlawful residential premises** has the meaning given to it by **section 78A(2)**
- (2) In section 2(1), replace the definition of **residential premises** with:
- residential premises** means any premises used or intended for occupation by any person as a place of residence, whether or not the occupation or intended occupation for residential purposes is or would be unlawful
- (3) In section 2(1), definition of **work order**, paragraph (b), after “~~138B~~” “healthy homes standards”, insert “; and”.
- (4) In section 2(1), definition of **work order**, after paragraph (b), insert:
- (c) if **section 78A** applies, *see also* **section 78A(4)(b)**

4A Section 13A amended (Contents of tenancy agreement)

(1AAA) Renumber section 13A(1DA) (as inserted by the Healthy Homes Guarantee Act 2017) as section 13A(1DB).

(1AAB) After section 13A(1D), insert:

(1DA) However, the landlord’s statements under subsections (1A) and (1CA) can be combined, with the landlord signing once to confirm both statements (in addition to the landlord signing the tenancy agreement).

- (1) In section 13A(1F)(a) and (b), replace “subsection (1A), or (1CB)” with “subsection (1A), (1CB), (2), (3), or (4)”.
- (2) After section 13A(1F), insert:
- (2) The landlord must include in the tenancy agreement the following information about insurance of the premises:

- (a) if the premises are not insured, a statement that they are not insured; and
- (b) if the premises are insured, a statement ~~setting out details of the insurance policy that are relevant to the tenant's liability for destruction of, or damage to, the premises, including—~~
 - (i) setting out, for each insurance policy that is relevant to the tenant's liability for destruction of or damage to the premises, the amount of each excess that is relevant (if any) to that liability; and
 - (ii) informing the tenant that a copy of the policy is available to the tenant on request (except that the statement need not inform the tenant of this if the landlord has already provided to the tenant a copy of the policy in accordance with **section 45(2B) or 66J(5)**).
 - (i) ~~the amount of the excess under the insurance; and~~
 - (ii) ~~what relevant risks are insured against and any relevant exceptions; and~~
 - (iii) ~~what, if any, acts or omissions of the tenant or of a person for whose actions the tenant is responsible under section 41 or 66L would have the effect of making insurance moneys under the policy irrecoverable.~~
- (3) If a tenant under a tenancy agreement that was entered into before **subsection (2)** comes into force requests the landlord to provide the information referred to in that subsection, the landlord must, within ~~14 days a reasonable time~~ after receiving the request, provide the information in writing to the tenant.
- (4) If anything changes so that the information that was included in the tenancy agreement in accordance with **subsection (2)** or that was provided in accordance with **subsection (3)** ~~or this subsection~~ is no longer correct, the landlord must ~~promptly~~ provide the correct information in writing to the tenant within a reasonable time after the landlord becomes aware of the change.

5 Section 40 amended (Tenant's responsibilities)

- (1) ~~In section 40(2)(a), after "premises", insert "(see **section 49B**)".~~
- (1) After section 40(3A), insert:
- (3B) See **sections 49A and 49B** in relation to the tenant's liability for a contravention of subsection (2)(a).
- (2) Repeal section 40(4).

6 Section 45 amended (Landlord's responsibilities)

- After section 45(2A), insert:
- (2B) The landlord of premises that are insured may at any time, and must within a reasonable time after receiving a request from the tenant for a copy of the insurance policy, provide to the tenant under a tenancy agreement a copy of

Proposed amendments to

each insurance policy that is relevant to the tenant's liability for destruction of, or damage to, the premises.

(2C) If anything changes so that the insurance information that was provided in accordance with **subsection (2B)** or this subsection is no longer correct, the landlord must, within a reasonable time after the landlord becomes aware of the change,—

- (a) provide the tenant with a copy of the correct information; or
- (b) if the premises are no longer insured, provide the tenant with a statement that they are not insured.

(2D) A landlord's failure to comply with **subsection (2B) or (2C)** is declared to be an unlawful act.

7 New sections 49A to 49E and cross-heading inserted

After section 49, insert:

Responsibility for damage

49A General principle

- (1) Except as provided in **section 49B**, a tenant has no liability or obligation, and must not be required, to—
 - (a) meet the cost of making good any destruction of, or damage to, the premises; or
 - (b) indemnify the landlord against the cost of making good the destruction or damage; or
 - (c) pay damages related to the destruction or damage; or
 - (d) carry out any works to make good the destruction or damage.
- (2) A tenant is not, in any case, liable for fair wear and tear.

49B When tenant liable

- (1) A tenant is not excused from liability or obligation by **section 49A(1)** if, and to the extent that,—
 - (a) the destruction or damage was intentionally done or caused by the tenant or by a person for whose actions the tenant is responsible under section 41 or 66L; or
 - (b) the destruction or damage was the result of an act or omission by the tenant or by a person for whose actions the tenant is responsible under section 41 or 66L and the act or omission occurred on or about the premises and constitutes an imprisonable offence; or
 - (e) ~~any insurance moneys that would otherwise have been payable because of the destruction or damage are irrecoverable because of an act or omis-~~

~~sion of the tenant or of a person for whose actions the tenant is responsible under section 41 or 66L.~~

- (2) To the extent provided in **subsection (3)**, the tenant is liable to the landlord for destruction of, or damage to, the premises that is caused by a careless act or omission of the tenant or of a person for whose actions the tenant is responsible under section 41 or 66L, other than an act or omission described in **subsection (1)**.
- (3) The tenant's liability under **subsection (2)** is limited,—
- (a) if the property is insured against the destruction or damage, to the lesser of the applicable excess under the insurance and whichever of the following is applicable:
 - (i) if the tenant pays an income-related rent within the meaning of section 2(1) of the Housing Restructuring and Tenancy Matters Act 1992, the market rent within the meaning of section 2(1) of that Act for the premises for a period of 4 weeks;
 - (ii) in any other case, the rent under the tenancy agreement for a period of 4 weeks; or
 - (b) otherwise, to whichever of the following is applicable:
 - (i) if the tenant pays an income-related rent within the meaning of section 2(1) of the Housing Restructuring and Tenancy Matters Act 1992, the market rent within the meaning of section 2(1) of that Act for the premises for a period of 4 weeks;
 - (ii) in any other case, the rent under the tenancy agreement for a period of 4 weeks.
- (3A) However,—
- (a) if any insurance moneys that would otherwise have been payable because of the destruction or damage are irrecoverable because of an act or omission of the tenant or of a person for whose actions the tenant is responsible under section 41 or 66L, for the purposes of **subsection (3)** the property is treated as not insured against the destruction or damage (and therefore **subsection (3)(b)** sets out the limit of the tenant's liability under **subsection (2)**); and
 - (b) see also **clause 19 of Schedule 1AA** (for other circumstances where **subsection (3)(b)** sets out the limit of the tenant's liability under **subsection (2)**, regardless of whether the property is insured against the destruction or damage).
- (4) To avoid doubt, a tenant's liability under **subsection (2)** may, if the tenancy agreement so provides or the tenant and landlord so agree, be satisfied by the tenant carrying out works to make good the destruction or damage up to a value of the liability limit in **subsection (3)**.

- (5) Unless the damage is the result of an action described in **subsection (1)**, a tenant's obligations under section 42(6) (removal of a fixture) to repair damage or to compensate the landlord for expenses incurred in repairing damage are limited to work of a value, or payment of an amount, up to the liability limit set out in **subsection (3)**.
- (6) Destruction or damage of which the landlord becomes aware after this section comes into force is presumed to have occurred after this section came into force unless the tenant proves otherwise.
- (7) If any destruction of, or damage to, the premises is proved to have occurred during any tenancy to which this Act applies,—
- (a) it is for the landlord to prove—
- (i) that any damage is not fair wear and tear; and
 - (ii) that any destruction or damage occurred in circumstances described in **subsection (1)(b)**; and
 - (iii) that any insurance moneys are irrecoverable for the reasons described in **subsection (3A)(a)-(1)(c)**; and
- (b) it is for the tenant to prove—
- (i) that any destruction or damage was not intentionally done or caused as described in **subsection (1)(a)**; and
 - (ii) that any destruction or damage was not caused by a careless act or omission described in **subsection (2)**.

49C Landlord, not insurer, to benefit from tenant liability for careless damage

- (1) An insurer of the premises against destruction or damage has no right or claim in relation to a tenant's liability under **section 49B(2) or (5)**, including no right of equitable or contractual subrogation and no right arising out of an assignment by the insured.
- (2) If an insured receives or is entitled to receive any money or benefit arising out of a tenant's liability under **section 49B(2) or (5)**, an insurer of the premises may not take that money or benefit into account in calculating the amount payable under the insurance.

49D Unlawful acts related to liability

It is declared to be an unlawful act for a landlord—

- (a) to demand, request, or accept from the tenant—
- (i) payment of an amount related to destruction of, or damage to, the premises that exceeds the tenant's liability in accordance with **section 49B**; or
 - (ii) the carrying out of any works to make good destruction of, or damage to, the premises the value of which exceeds the tenant's liability in accordance with **section 49B**:

- (b) to propose to, or enter into with, the tenant an agreement under which the tenant is obligated—
 - (i) to pay an amount related to destruction of, or damage to, the premises that exceeds the tenant’s liability under **section 49B**; or
 - (ii) to carry out any works to make good the destruction or damage if the value of the works exceeds the tenant’s liability under **section 49B**.

49E Meaning of premises

In **sections 49A to 49D**, unless the context otherwise requires, **premises** includes facilities.

8 Section 50 amended (Circumstances in which tenancies are terminated)

In section 50(a), replace “sections 58(1)(d)” with “sections **56A(1)**, 58(1)(d)”.

9 Section 51 amended (Termination by notice)

In section 51(2), after “53A,”, insert “**56A(1)**,”.

10 Section 55 amended (Termination on non-payment of rent, damage, or assault)

In section 55(2), after “applies”, insert “(but *see also* **section 78A(3)(b)**)”.

11 New section 56A inserted (Termination where premises are unlawful residential premises)

After section 56, insert:

56A Termination where premises are unlawful residential premises

- (1) A tenant of premises that at the start of the tenancy were, and that remain, unlawful residential premises may terminate the tenancy by giving not less than 2 days’ notice to the landlord.
- (2) Without limiting **subsection (1)**, a landlord or a tenant may apply to the Tribunal for an order terminating a tenancy on the ground that the premises are unlawful residential premises.
- (3) The Tribunal may make the order if **section 78A** applies and the Tribunal is satisfied that it would be inequitable to refuse to make an order terminating the tenancy.

12 Section 61 amended (Abandonment of premises)

After section 61(3), insert:

- (3A) Subsection (3) does not apply if **section 78A** applies.

13 Section 64 amended (Possession orders)

In section 64(3), after “section 56”, insert “or **section 56A**”.

14 Section 66J amended (Other obligations of landlord)

After section 66J(4), insert:

- (5) The landlord of premises that are insured may at any time, and must within a reasonable time after receiving a request from the tenant for a copy of the insurance policy, provide to the tenant under a tenancy agreement a copy of each insurance policy that is relevant to the tenant’s liability for destruction of, or damage to, the premises.
- (6) If anything changes so that the insurance information that was provided in accordance with **subsection (5)** or this subsection is no longer correct, the landlord must, within a reasonable time after the landlord becomes aware of the change,—
- (a) provide the tenant with a copy of the correct information; or
- (b) if the premises are no longer insured, provide the tenant with a statement that they are not insured.
- (7) A landlord’s failure to comply with **subsection (5) or (6)** is declared to be an unlawful act.

15 Section 66K amended (Obligations of tenant)

- (1) In section 66K(1)(e), delete “; and”.
- (2) Repeal section 66K(1)(f).
- (3) In section 66K(2)(a), after “premises”, insert “(see **section 49B**)”.
- (3) After section 66K(4), insert:
- (5) See **sections 49A and 49B** in relation to the tenant’s liability for a contravention of subsection (2)(a).

16 Section 77 amended (Jurisdiction of Tribunal)

- (1) After section 77(2)(ab), insert:
- (ac) to determine whether any premises are or are not, or were or were not at any material time, unlawful residential premises as defined in **section 78A(2)**;
- (2) After section 77(2)(mc), insert:
- (md) to make orders in accordance with **section 78A** (which relates to unlawful residential premises) if that section applies;
- (3) After section 77(2A), insert:
- (2B) If **section 78A** applies in any matter, the Tribunal’s jurisdiction under subsection (2)(k) and (n) of this section, in relation to that matter, is subject to that section.
- (2C) Nothing in this Act requires the Tribunal to inquire, in the case of every dispute within its jurisdiction, into whether premises are, or were at any material time, unlawful residential premises.

17 Section 78 amended (Orders of Tribunal)

- (1) In section 78(1), after “in respect of any claim within its jurisdiction”, insert “(but subject to **section 78A**, if that section applies)”.
- (2) In section 78(2AA), after “apply”, insert “if the work order is a **section 78A** work order or”.
- (3) After section 78(2AAB), insert:
(2AABA) Subsection (2AAB) does not apply if the work order is a **section 78A** work order.

18 New section 78A inserted (Orders of Tribunal relating to unlawful residential premises)

After section 78, insert:

78A Orders of Tribunal relating to unlawful residential premises

- (1) This section applies in any matter where the Tribunal, on application by a party or otherwise on the evidence before the Tribunal in respect of any claim within its jurisdiction, determines or declares that the premises are, or were at any material time, unlawful residential premises.
- (2) For the purposes of this Act, **unlawful residential premises** means residential premises that are used for occupation for a person as a place of residence but—
 - (a) that cannot lawfully be occupied for residential purposes by that person (whether generally or whether for the particular residential purposes for which that person is granted occupation); and
 - (b) where the landlord’s failure to comply with the landlord’s obligations under section 36 or 45(1)(c), or section 66H(2)(c) or 66I(1)(c), as relevant, has caused the occupation by that person to be unlawful or has contributed to that unlawful occupation.
- (3) Despite anything to the contrary elsewhere in this Act,—
 - (a) unless the Tribunal is satisfied that, having regard to the special circumstances of the matter, including the nature of the premises, it would be unjust not to make the order, the Tribunal must not order the tenant to pay to the landlord—
 - (i) any sum found to be owing by way of rent in arrear; or
 - (ii) any other sum by way of damages or compensation:
 - (b) if the landlord has applied for termination on the ground of rent in arrear, the Tribunal may, but is not required to, make the order terminating the tenancy.
- (4) Without limiting the generality of section 77 or the nature or extent of orders that the Tribunal may make in accordance with this Act in relation to the matter,—

Proposed amendments to

- (a) the Tribunal may order the landlord to pay to the tenant—
 - (i) the whole of the sum found to have been paid by way of rent for the period for which the Tribunal is satisfied that the premises are or were unlawful residential premises; or
 - (ii) an amount that is the sum referred to in **subparagraph (i)** less any amount that the Tribunal is satisfied, having regard to the special circumstances of the matter, including the nature of the premises, it is fair to deduct:
- (b) a **section 78A** work order may comprise or include an order that the landlord take the steps available to the landlord, as specified in the order, to (or to endeavour to)—
 - (i) remove or rectify any impediment to the tenant lawfully occupying the premises for residential purposes; or
 - (ii) comply with all requirements in respect of buildings, health, or safety under any enactment so far as they apply to the premises.
- (5) Even if the tenant does not apply for a particular order, the Tribunal may make any of the following orders on its own initiative:
 - (a) any order under **subsection (4)(a)**; and
 - (b) any **section 78A** work order; and
 - (c) any other order, authorised by this Act, that is in favour of the tenant (including, without limitation, an order under section 109 for an amount in the nature of exemplary damages for failure to comply with section 45(1)(c) or 66I(1)(c)).

19 Section 108 amended (Enforcement of work orders)

- (1) In section 108(2)(a), after “section 78”, insert “(or **78A**, if that section applies)”.
- (2) In section 108(2)(c), replace “make an order” with “(except in the case of a **section 78A** work order) make an order”.

20 Section 112 amended (Contempt)

In section 112(1)(d), replace “section 78 or section 108(2)” with “section 78, **78A**, or 108(2)”.

21 Section 142 amended (Effect of Property Law Act 2007)

- (1) In the heading to section 142, replace “Effect” with “Non-application of Part 4”.
- (2) Repeal section 142(2).

22 Schedule 1AA amended

In Schedule 1AA, after clause ~~13~~ 14, insert the **Part 3 4** set out in the **Schedule** of this Act.

23 Schedule 1A amended

(1AA) In Schedule 1A, ~~replace the item relating to section 13A(1F), replace “or (1CB)” with: “(1CB), (2), (3), or (4)”~~.

13A(1F)	(Non-compliance with section 13A(1A), (2), (3), or (4), etc)	500
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(1) In Schedule 1A, insert in ~~its~~ their appropriate numerical order:

45(2D)	(Landlord’s failure to meet obligations to provide insurance policy or to correct information provided)	500
49D	(Unlawful acts of landlord related to the tenant’s liability under section 49B)	1,000
66J(7)	(Landlord of boarding house failing to meet obligations to provide insurance policy or to correct information provided)	500

(2) In Schedule 1A, replace the item relating to section 108(2A) with:

108(2A)	(Breach of work order (other than section 78A work order) without reasonable excuse)	3,000
108(2A)	(Landlord breaching section 78A work order without reasonable excuse)	4,000

23A Consequential amendment to Healthy Homes Guarantee Act 2017

- (1) This section amends the Healthy Homes Guarantee Act 2017.
- (2) ~~In the Schedule, item relating to section 2, new paragraph (b) of the definition of **work order**, after “healthy homes standards”, insert “; and”.~~

24 Consequential amendment to Unit Titles Act 2010

- (1) This section amends the Unit Titles Act 2010.
- (2) After section 176(1)(a), insert:

(aa)	section 78A (which relates to orders of the Tribunal relating to unlawful residential premises):
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Part 2

Amendments relating to methamphetamine and other contaminants

25 Section 2 amended (Interpretation)

- (1) In section 2(1), insert in their appropriate alphabetical order:

contaminant	means any of the following:
(a)	methamphetamine:
(b)	any substance prescribed, or within a class of substance prescribed, as being a contaminant for the purposes of this Act

Proposed amendments to

Part 2 cl 25A

Residential Tenancies Amendment Bill (No 2)

methamphetamine means the Class A controlled drug methamphetamine specified or described in Schedule 1 of the Misuse of Drugs Act 1975

(2) In section 2(1), insert in its appropriate alphabetical order:

contaminated, in relation to premises, means that a contaminant is present in any part of the premises at a level above any relevant prescribed maximum acceptable level

25A Section 33 amended (Tenant’s goods not to be seized)

In section 33(4)(a), after “62C”, insert “or in accordance with regulations made for the purposes of **section 62(3A)**”.

26 Section 45 amended (Landlord’s responsibilities)

(1AAA) Before section 45(1)(c), insert:

(bd) comply with all requirements in respect of contaminants imposed on the landlord by regulations made under **section 138C(1)(ab)**; and

(1) After section 45(1), insert:

(1AA) **Subsection (1AAB)** applies to a landlord of premises ~~Without limiting subsection (1), the landlord must not provide the premises to the tenant at the commencement of the tenancy if—~~

- (a) the landlord knows that tests carried out in accordance with prescribed methods have established that the premises are contaminated; and
- (b) the premises have not been decontaminated in accordance with the relevant prescribed decontamination process.

(1AAB) If this subsection applies—

- (a) and the premises have not yet been provided to the tenant, the landlord must not provide the premises to the tenant until the premises have been decontaminated in accordance with a relevant prescribed decontamination process;
- (b) and the tenant has already been provided with the premises, the landlord may continue to provide the premises to the tenant (under that tenancy or any extension or renewal of that tenancy) only if the premises are being decontaminated in accordance with a relevant prescribed decontamination process and any rules prescribed under **section 138C(1)(ca)**.

(1AAC) **Subsections (1AA) and (1AAB)** do not limit subsection (1), but *see also*, in relation to the landlord’s liability for contaminant presence, **section 45A**.

(2) After section 45(1A), insert:

(1AB) A contravention by the landlord of **subsection (1AAB)** is declared to be an unlawful act.

(3) In section 45(3) and (4), replace “subsection (1)” with “subsections (1) to (1AAB) and (1AA)”.

26A New section 45A inserted (Protection from liability for landlord who complies with contaminant regulations)

After section 45, insert:

45A Protection from liability for landlord who complies with contaminant regulations

- (1) **Subsection (2)** applies to a landlord of premises during any period where—
- (a) a contaminant is present at the premises, but either—
- (i) the premises are not contaminated with the contaminant; or
- (ii) unknown to the landlord, the premises are contaminated with the contaminant; and
- (b) regulations made under **section 138C(1)(ab)** are in force in respect of the contaminant and apply in relation to the premises.
- (2) The landlord (having complied with those regulations during that period) is not liable, under this Act, for not having provided the tenant with clean or habitable premises during that period on the basis of the presence of the contaminant in the premises.
- (3) For the purpose of this section, a landlord knows that premises are contaminated only if the landlord knows that tests carried out in accordance with a relevant prescribed method have established that the premises are contaminated.

27 Section 48 amended (Landlord’s right of entry)

- (1) After section 48(2)(b), insert:
- (ba) for the purpose of testing for the presence of contaminants; or taking samples for such testing; (except where the testing or sample taking is part of a prescribed decontamination process) at any time between 8 o’clock in the morning and 7 o’clock in the evening of any day, after giving to the tenant notice of the intended entry and the reason for it (including stating the contaminants to be tested for) at least 48 hours but not more than 14 days before the intended entry; or
- (1A) Before section 48(2)(d), insert:
- (cc) without limiting paragraph (d), for the purpose of carrying out decontamination work to the premises, and attending to such other matters required if decontaminating in accordance with a prescribed process (including any testing or sample taking as part of that prescribed process), at any time between 8 o’clock in the morning and 7 o’clock in the evening of any day, after giving to the tenant notice of the intended entry and the reason for it at least 24 hours before the intended entry; or
- (2) After section 48(3A), insert:
- (3B) If premises are entered ~~under a notice~~ for the purpose of **subsection (2)(ba)**, testing for the presence of contaminants or taking samples for such testing

(including as part of any decontamination process), the landlord must, within 7 days of receiving the results of the testing, notify the tenant, in writing, of the results of the testing and provide the tenant with a copy (if any) of the results; if any.

28 Section 50 amended (Circumstances in which tenancies are terminated)

In section 50(a), replace “or 59A” with “59A, or 59B”.

29 Section 51 amended (Termination by notice)

In section 51(1) and (2), replace “and 59A” with “59A, and 59B”.

29A Section 59 amended (Destruction of premises)

After section 59(4), insert:

- (5) In this section and section 59A, premises that are contaminated are treated as so seriously damaged as to be uninhabitable if the contamination has been established by tests carried out in accordance with prescribed methods.
- (6) In subsection (4), **reinstate**, in the case of contamination, means decontaminate in accordance with the relevant prescribed decontamination process.
- (5) This section does not apply in relation to damage that is contamination by a contaminant if regulations prescribe a relevant method of testing for, and a relevant maximum inhabitable level of, that contaminant (but *see* **section 59B**).

29B Section 59A amended (Termination where breach renders premises uninhabitable)

After section 59A(5), insert:

- (6) This section does not apply in relation to damage that is contamination by a contaminant if regulations prescribe a relevant method of testing for, and a relevant maximum inhabitable level of, that contaminant (but *see* **section 59B**).

30 New section 59B inserted (Termination where regulations prescribe testing methods and maximum inhabitable level of contaminant)

After section 59A, insert:

59B Termination where regulations prescribe testing methods and maximum inhabitable level of contaminant

- (1) This section applies if testing in accordance with a relevant prescribed method establishes contamination by a contaminant, in any part of the premises, at a level that is above a relevant maximum inhabitable level prescribed for that contaminant.
- (2) If the contamination has occurred as a result of a breach of the tenancy agreement (whether for a fixed-term tenancy or a periodic tenancy),—

- (a) the whole of the premises is treated as uninhabitable; and
 - (b) if the tenant is not in breach, the rent abates; and
 - (c) the party who is not in breach may give notice to the other party terminating the tenancy.
- (3) If the contamination has occurred otherwise than as a result of a breach of the tenancy agreement (whether for a fixed-term tenancy or a periodic tenancy), then, unless **subsection (4)** applies,—
- (a) the whole of the premises is treated as uninhabitable; and
 - (b) the rent abates; and
 - (c) either party may give notice to the other terminating the tenancy.
- (4) However, for the purposes of **subsection (3)**, if the only part of the premises that is established to be contaminated above the maximum inhabitable level is a remote and inconsequential part of the premises (*see **subsection (8)***),—
- (a) the rent abates accordingly; and
 - (b) either party may apply to the Tribunal for an order terminating the tenancy.
- (5) On an application under **subsection (4)(b)**, the Tribunal may make an order terminating the tenancy if it is satisfied that it would be unreasonable to require the landlord to decontaminate the premises or (as the case may require) to require the tenant to continue with the tenancy albeit at a reduced rent.
- (6) Where a landlord gives notice of termination under this section, the period of notice is not less than 7 days.
- (7) Where a tenant gives notice of termination under this section, the period of notice is not less than 2 days.
- (8) In this section, a part of the premises is **remote and inconsequential** if—
- (a) it is physically located away from, or physically closed off to, the rest of the premises in a way that is likely to prevent the spread of the contaminant to the rest of the premises (or is capable of being, and, after contamination is established, is, physically removed from or physically closed off to the rest of the premises in a way that is likely to prevent that spread); and
 - (b) the rest of the premises can reasonably be used, without that part, as residential premises under the tenancy agreement.

30A Section 62 amended (Goods left on premises on termination of tenancy)

After section 62(3), insert:

- (3A) However, if tests carried out in accordance with a relevant prescribed methods method have established that the premises are contaminated, and regulations under this Act prescribe a process (and associated duties) for dealing with the

~~goods, subsection (3) does not apply and those regulations must instead be complied with.—~~

- ~~(a) subsection (3) and sections 62A to 62D do not apply; and~~
- ~~(b) the prescribed process and duties must instead be complied with.~~

30B Section 62E amended (Responsibility of tenant unaffected)

In section 62E, after “62D”, insert “and any regulations made for the purposes of **section 62(3A)**”.

30C Section 62F amended (Protection from liability)

- (1) In section 62F(1), after “62A” and “62B”, insert “or in accordance with regulations”.
- (2) In section 62F(2), after “62A(5)(b)(ii)” and “62B(2)(b)”, insert “or in accordance with regulations,”.
- (3) After section 62F(2), insert:
- (3) In this section, **regulations** means regulations made for the purposes of **section 62(3A)**.

31 Section 64 amended (Possession orders)

In section 64(3), after “or section 59”, insert “or **section 59B**”.

32 Section 66H amended (Landlord’s obligations at start of tenancy)

After section 66H(2), insert:

- ~~(3) Without limiting subsection (2), the landlord must not provide the tenant with the boarding room at the commencement of a tenancy if—~~
 - ~~(a) the landlord knows that tests carried out in accordance with prescribed methods have established that any part of the room or facilities of the boarding house is contaminated; and~~
 - ~~(b) the room or facilities (as relevant) have not been decontaminated in accordance with the relevant prescribed decontamination process.~~
- ~~(4) A contravention by the landlord of **subsection (3)** is declared to be an unlawful act.~~
- (3) *See also* **sections 66I(1B)(a) and 66IA**.

32A Section 66I amended (Landlord’s ongoing obligations)

- (1) After section 66I(1)(bb), insert:
 - ~~(bc) comply with all requirements in respect of contaminants imposed on the landlord by regulations made under **section 138C(1)(ab)**; and~~
- (2) After section 66I(1), insert:
- (1A) **Subsection (1B)** applies to a landlord of a boarding house tenancy if—

- (a) the landlord knows that tests carried out in accordance with a relevant prescribed method have established that any part of the boarding room or facilities of the boarding house is contaminated; and
 - (b) the boarding room or facilities (as relevant) have not been decontaminated in accordance with a relevant prescribed decontamination process.
- (1B) If this subsection applies—
- (a) and the boarding room has not yet been provided to the tenant, the landlord must not provide the boarding room to the tenant until the boarding room or facilities (as relevant) have been decontaminated in accordance with a relevant prescribed decontamination process;
 - (b) and the tenant has already been provided with the boarding room, the landlord may continue to provide the boarding room to the tenant (under that tenancy or any extension or renewal of that tenancy) only if the boarding room or facilities (as relevant) are being decontaminated in accordance with a relevant prescribed decontamination process and any rules prescribed under **section 138C(1)(ca)**.
- (1C) **Subsections (1A) and (1B)** do not limit subsection (1) or section 66H(2), but *see also*, in relation to the landlord’s liability for contaminant presence, **section 66IA**.
- (3) In section 66I(2), replace “Subsection (1) applies” with “Subsections (1) to (1B) apply”.
- (4) After section 66I(4), insert:
- (5) A contravention by the landlord of **subsection (1B)** is declared to be an unlawful act.

32B New section 66IA inserted (Protection from liability for landlord who complies with contaminant regulations)

After section 66I, insert:

66IA Protection from liability for landlord who complies with contaminant regulations

- (1) **Subsection (2)** applies to a landlord of a boarding house during any period where—
- (a) a contaminant is present at the premises, but either—
 - (i) the premises are not contaminated with the contaminant; or
 - (ii) unknown to the landlord, the premises are contaminated with the contaminant; and
 - (b) regulations made under **section 138C(1)(ab)** are in force in respect of the contaminant and apply in relation to the premises.
- (2) The landlord (having complied with those regulations during that period) is not liable, under this Act, for not having provided the tenant with clean or habita-

ble premises during that period on the basis of the presence of the contaminant in the premises.

- (3) For the purpose of this section, a landlord knows that premises are contaminated only if the landlord knows that tests carried out in accordance with a relevant prescribed method have established that the premises are contaminated.

33 Section 66J amended (Other obligations of landlord)

After section 66J(3), insert:

- (3A) If the landlord carries out tests for the presence of contaminants in any of the facilities, the landlord must, within 7 days of receiving the results of the testing, notify every current tenant of the boarding house, in writing, of the results of the testing, and provide each of them with a copy (if any) of the results, ~~if any~~.

34 Section 66S amended (Notice of entry)

- (1) ~~After~~ Before section 66S(1)(~~f~~)(d), insert:

(facc) to test for the presence of stated contaminants, or to take samples for such testing:

- (1A) After section 66S(3)(a), insert:

(aa) if the purpose is to test for the presence of stated contaminants or to take samples for such testing (or involves such testing or sample taking for the purpose of subsection (1)(c)), state those contaminants; and

- (2) After section 66S(4), insert:

- (5) If a boarding room is entered under a notice of entry for the purpose of ~~sub-section (1)(fa)~~ testing for the presence of stated contaminants, or taking samples for such testing (or involves such testing or sample taking for the purpose of subsection (1)(c)), the landlord must, within 7 days of receiving the results of the testing, notify the tenant, in writing, of the results of the testing and provide the tenant with a copy (if any) of the results, ~~if any~~.

36A Section 77 amended (Jurisdiction of Tribunal)

In section 77(2)(mc), after “62B”, insert “or in accordance with any regulations made for the purposes of **section 62(3A)**”.

36B Section 78 amended (Orders of Tribunal)

After section 78(2AA)(b), insert:

(ba) decontamination:

37 ~~New sections 138C and 138D inserted~~ **Section 138C replaced (Powers to make regulations under sections 138A and 138B not limited by other enactments)**

~~Before section 139, insert:~~ Replace section 138C (as inserted by the Healthy Homes Guarantee Act 2017) with:

138C Regulations in respect of contaminants and contaminated premises

- (1AA) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing substances, or classes of substances, as contaminants for the purposes of this Act.
- (1AB) Before making a recommendation for the purposes of **subsection (1AA)**, the Minister must be satisfied that the substance may be harmful to the health of persons.
- (1) The Governor-General may, by Order in Council ~~made on the recommendation of the Minister,~~ make regulations for all or any of the following purposes:
- (a) prescribing maximum acceptable levels, or a means of calculating maximum acceptable levels, of contaminants for premises for the purposes of the definition of contaminated:
 - (aa) prescribing maximum inhabitable levels of contaminants for premises for the purpose of **section 59B**:
 - (ab) imposing on landlords requirements in respect of contaminants for the purposes of **section 45(1)(bd) or 66I(1)(bc)**:
 - (b) prescribing methods for carrying out tests for the presence of contaminants in premises; (including for testing premises, taking samples for testing, testing of samples, establishing levels of contaminants present in premises, and who is authorised to carry out the tests or parts of the tests):
 - (c) prescribing decontamination processes (which may extend to pre-decontamination and post-decontamination assessment, sampling, and testing, and may include who is authorised to carry out processes or parts of processes) ~~for the purposes of **sections 45(1AA) and 66H(3)**:~~
 - (ca) prescribing, for the purposes of **section 45(1AAB)(b) or 66I(1B)(b)**, additional rules about how decontamination of premises is to be carried out while the landlord continues to provide the premises to the tenant (for example, periods (or means of calculating periods) within which processes or parts of processes must be begun or completed):
 - (d) prescribing processes and duties for the purposes of **section 62(3A)** (which relates to abandoned goods on contaminated premises).
- (1A) ~~Before making a recommendation for the purposes of **subsection (1)**, the Minister must have regard to any relevant New Zealand Standard.~~

Proposed amendments to

- (2) Regulations under this section may ~~be different for different~~ make different provision for different cases on any differential basis, including—
- (a) contaminants or classes of contaminants;
 - (b) spaces, materials, or other aspects of premises or goods, or for different descriptions of premises or goods;
 - (c) levels of contamination;
 - (d) without limiting **paragraph (b)**, ways in which premises or goods, or spaces or materials or other aspects (for example, surfaces) of premises or goods, may have or may become contaminated.
- (2A) The requirements that may be imposed by regulations under **subsection (1)(ab)** include the following (for example):
- (a) requirements to test premises for the presence of contaminants in certain circumstances;
 - (b) requirements to use the methods prescribed, or parts of those prescribed methods, for carrying out tests or parts of tests for the presence of contaminants in premises, in all or in certain circumstances;
 - (c) requirements to use prescribed decontamination processes if decontaminating premises.
- (2B) Requirements under **subsection (2A)(a)** may apply to, or may be different for, different stages of tenancies (for example, at the commencement of or during a tenancy).
- (2C) Regulations under this section, including requirements imposed by regulations under this section, may be subject to exceptions.
- (3) Regulations under **subsection (1)(d)** ~~may require compliance with sections 62(3) and 62A to 62D—~~
- (a) ~~in whole or in part; and~~
 - (b) ~~with modifications, additions, or variations specified in the regulations.~~
 - (a) require compliance with, or otherwise incorporate, sections 62(3) and 62A to 62D—
 - (i) in whole or in part; and
 - (ii) with modifications, additions, or variations specified in the regulations; and
 - (b) without limiting the generality of the above, permit the landlord to decontaminate abandoned goods and deduct from the proceeds of sale the costs of decontaminating the goods that were reasonably incurred by the landlord.
- (4) In this section, **premises** includes facilities.

138D Powers to make regulations under sections 138A to 138C not limited by other enactments, etc

- (1) To avoid doubt, nothing in the Building Act 2004, or in any other enactment relating to buildings, health, or safety, limits the provision that may be made by regulations under section 138A, 138B, or **138C**.
- (2) Regulations under section 138B(1) may provide that a provision of any regulations in force under section 120C of the Health Act 1956 that relates to any matter referred to in section 138B(2) does not apply in relation to premises (read in accordance with section 138B(7)) that are subject to tenancies.

38 Schedule 1A amended

- (1) In Schedule 1A, insert in their appropriate numerical order:

45(1AB)	(Landlord providing premises, or continuing to provide premises, at start of tenancy despite landlord's knowledge of contamination of premises)	4,000
66I(5)H(4)	(Landlord of boarding house providing, or continuing to provide, boarding room at start of tenancy despite landlord's knowledge of contamination of boarding room or facilities)	4,000

- (2) In Schedule 1A, in the items relating to sections 45(1A) and 66I(4), after “healthy homes standards,” (as inserted by the Healthy Homes Guarantee Act 2017), insert “contamination,”.

39 Consequential amendment to Healthy Homes Guarantee Act 2017

- (1) This section amends the Healthy Homes Guarantee Act 2017.
- (2) In section 6, repeal new section 138C.

Schedule
New Part 3-4 of Schedule 1AA inserted

s 22

Part 3-4
Provisions relating to Residential Tenancies Amendment Act 2017

1415 Interpretation

In this Part,—

2017 Amendment Act means the Residential Tenancies Amendment Act **2017**

amendment means an amendment to this Act made by a provision of the **2017 Amendment Act**

commencement date, in relation to an amendment, means the date on which the provision of the **2017 Amendment Act** that makes the amendment comes into force

tenancy includes a tenancy to which this Act applies as a result of **section 4(2)** of the **2017 Amendment Act** (which replaces the definition of residential premises in section 2(1)) and that subsists on the date on which that amendment came into force.

1516 Existing tenancies, etc

- (1) An amendment applies to a tenancy whether the tenancy commences before, on, or after the commencement date.
- (2) This clause is subject to **clause 19**.

1617 New unlawful acts

An amendment that creates a new unlawful act does not apply to acts or omissions before the commencement date.

1718 Proceedings that have commenced

An amendment does not apply to proceedings commenced before the Tribunal before the commencement date.

19 Application of insurance and tenant liability provisions to social housing provider tenancies under existing Property Law Act 2007 leases

- (1) This clause applies only in circumstances where—
 - (a) Housing New Zealand Corporation or a registered community housing provider (a **housing provider**) is the landlord of residential premises that are the subject of a tenancy agreement; and
 - (b) the housing provider is a lessee of those premises under a lease—

- (i) to which the Property Law Act 2007 applies; and
- (ii) that was entered into before the date on which **section 4A** of the **2017** Amendment Act came into force (and including any renewal term commencing on or after that date if the right of renewal existed in the lease before that date); and
- (c) the housing provider has no legally enforceable right to require the lessor under that lease to provide the housing provider with the information that the housing provider would need to possess in order to be able to comply with the insurance information sections.
- (2) If this clause applies,—
- (a) the insurance information sections do not apply to the housing provider; and
- (b) for the purpose of determining the tenant’s liability under **section 49B(2)**, the premises are treated as not insured against the destruction or damage (so that the applicable limit in **section 49B(3)(b)** applies).
- (3) In this clause,—
- insurance information sections** means—
- (a) **section 13A(2) to (4)** (as inserted by **section 4A** of the **2017** Amendment Act); and
- (b) **section 45(2B) to (2D)** (as inserted by **section 6** of the **2017** Amendment Act); and
- (c) **section 66J(5) to (7)** (as inserted by **section 14** of the **2017** Amendment Act)
- registered community housing provider** has the same meaning as in section 2(1) of the Housing Restructuring and Tenancy Matters Act 1992.
- 20 Transitional provision for continuing tenancy agreement when circumstances in clause 19 cease applying**
- (1) This clause applies if **clause 19** ceases to apply but the tenancy agreement is continuing, and the tenancy agreement was entered into on or after the date on which **section 13A(2)** (as inserted by **section 4A** of the **2017** Amendment Act) came into force.
- (2) For the purpose of **section 13A(3)**, the tenancy agreement is treated as having been entered into before **section 13A(2)** came into force.
- 1821 Application of section 56A(1) to existing tenancies**
- Section 56A(1)** (as inserted by **section 11** of the **2017** Amendment Act) applies to a tenant of a tenancy of premises that are unlawful residential premises immediately after the commencement of **section 56A(1)** as if the tenancy had started on commencement of that section.

1922 Application of section 78A to certain work orders

Section 78A (as inserted by **section 18** of the **2017** Amendment Act) does not apply to subsequent proceedings taken for enforcement of a work order made in a matter for which proceedings commenced before the Tribunal before the date on which that section comes into force.