



## Providing a healthy and safe rental property

The Residential Tenancies Act 1986 (s45) requires landlords to provide and maintain the premises in a reasonable state of repair having regard to the age and character of the premises and when they are likely to remain habitable and available for residential purposes.

Landlords must also provide the premises in a reasonable state of cleanliness.

The Act does not directly regulate the standard of rental properties. However, it reinforces that landlords 'comply with all requirements in respect of buildings, health, and safety under any enactment so far as they apply to the premises'.

In practice, this means landlords need to be broadly aware of health and safety-related requirements in the following laws:

- Building Act 2004 and the Building Code
- Health Act 1956, and
- Housing Improvement Regulations and bylaws made under the Local Government Act 2002. These are set by individual councils.

### New or used buildings

The usual legal starting points for a rental property to be in a healthy and safe state of repair are the 2004 Building Act and the Building Code.

The Act governs the construction of new buildings and the alteration and demolition of existing buildings. It also provides for the Building Code, which sets out minimum performance standards for work on all types of buildings.

These standards only apply to new building work and don't affect existing buildings unless they are renovated, altered or undergo a change of use. It has no special provisions for rental homes. So rental homes must meet the normal performance requirements of dwelling houses.

### Council requirements

The Building Act requires territorial authorities to adopt policies on dangerous and unsanitary buildings. It enables them to take action against owners of such buildings, regardless of when they were built.

Buildings are considered dangerous if they are likely to cause injury, death or damage to other properties. Buildings are considered unsanitary if they are offensive or likely to be injurious to health; have insufficient protection against moisture penetration; have an inadequate supply of potable water; or have inadequate sanitary facilities.

### The Building Code

The Code sets out performance standards that building work must meet. It covers aspects such as structural stability, fire safety, access, moisture control, durability, services and facilities.

The Code is performance-based. Rather than telling people exactly how to build, it sets out objectives to be achieved.

For example, one objective is to 'safeguard people from illness or injury which could result from external moisture entering the building' – ie buildings must be weathertight.

The Code does not prescribe construction methods. It gives guidance on how a building and its



components must perform as opposed to how the building must be designed and constructed. Responsibility for ensuring compliance with the requirements of these pieces of legislation rests primarily with local authorities.

## **Summary**

A tenant could apply to the Tenancy Tribunal for a work order or other type of order if a landlord does not meet the general responsibilities for providing safe and healthy premises under s45 of the Residential Tenancies Act.