

## Factors to consider in considering the standards

### *Exceeding the Building Code*

117 Three recommended standards exceed Building Code requirements for existing houses:

- 117.1 Heating – heating requirements in the Building Code are only specified for childcare facilities and retirement homes
- 117.2 Ventilation – both openable windows or mechanical ventilation are acceptable solutions under the Building Code, but neither are currently requirements
- 117.3 Moisture ingress and drainage – the Building Code only requires a ground moisture barrier where a subfloor cannot meet subfloor ventilation requirements

118 The Ministry of Business, Innovation and Employment is currently considering reviewing and revising aspects of the Building Code that do not align with the proposed healthy homes standards.

119 There is a risk that new builds would not meet the healthy homes standards. Based on current building practices, officials advise that this scenario would be uncommon. The majority of new homes are built on concrete slabs and therefore do not require ground moisture barriers. Further, anecdotal evidence suggests mechanical extractor ventilation in bathrooms and kitchens is included in the majority of new builds. However, heating remains a feature that may not be installed in new homes.

### *Industry capacity*

120 The standards will require a significant portion of the rental housing stock to undertake retrofit work to meet the standards. Given the current skills shortages in the construction sector, there is a risk that industry capacity could limit the ability for landlords to meet their obligations. Industry capacity has been considered when setting the compliance approach to mitigate this risk.

### *Maintaining supply in the market*

121 It is anticipated that the standards would likely have a moderate effect on landlords overall. While owners of high quality rental stock would incur minimal costs (as they likely already meet or exceed the standards), many owners of low-quality stock would need more substantial repairs to meet the standards, which may lead to the sale of some properties.

122 NZIER estimates in the cost benefit analysis that it would cost in the region of \$8,625 to \$11,500 including GST to outfit a house to comply with the standards (assuming a house is deficient in all of the standards to begin with). NZIER noted that it is unlikely that landlords would pass these costs through to tenants in full. Many private landlords hold property in hope of capital gain, as much as for rental income, and will likely be reluctant to incur the opportunity cost of vacancy and expense of recruiting new tenants by raising rents, when other properties may not be doing so.

## Related government initiatives

123 There are a number of other government initiatives underway that impact on the rental sector and rental housing quality:

- 123.1 **Residential Tenancies Act (RTA) reform:** consultation recently closed on the RTA reform proposals, which focus on such areas as improving a tenant's

security and stability of tenure, modernising the law to appropriately balance the rights and responsibilities of tenants and landlords, and implementing a more efficient and proportionate enforcement regime.

- 123.2 **Tier one statistics:** Statistics New Zealand, in partnership with MBIE, will undertake a public consultation on the definition of housing quality later this year to support the development of a tier one statistic.
- 123.3 **Winter Energy Payment:** introduced on 1 July 2018 to help New Zealanders receiving New Zealand Superannuation or a Veterans' Pension and beneficiaries, to heat their homes by increasing the amount of money available to them over the winter months.
- 123.4 **“Warmer Kiwi Homes”:** a new four year government programme offering grants from 1 July 2018 to cover two thirds of the cost of ceiling and underfloor insulation and ground moisture barriers to low income home owners. Heating grants will be added from 1 July 2019.
- 123.5 **Healthy Homes Initiative (HHI):** the Ministry of Health's HHI was established in December 2013. The HHI identifies at-risk families and undertakes housing assessments and facilitates access to interventions to create warmer, drier homes. Interventions include insulation, curtains, beds/bedding, floor coverings, heating sources and relocation. The Ministry of Housing and Urban Development and Housing New Zealand Corporation have agreed to a comprehensive evaluation of the programme, led by the Ministry of Health.
- 123.6 **Te Puni Kōkiri community-led housing repair projects:** supports community led housing repair projects aimed at whanau-owned homes in serious disrepair or without basic utilities. Whānau report these projects enable them to stay in their homes and contribute to immediate improvements in their health, including fewer GP visits and lower use of asthma medication, improved self-esteem and stronger connections to whakapapa, whanau and whenua.

### Next steps

- 124 On 1 July 2019 the standards enabled by the Healthy Homes Guarantee Act 2017 will come into force. Existing insulation requirements will be replaced with the healthy homes standards. To prevent a legislative gap the healthy homes standards must be gazetted prior to 1 July 2019.
- 125 If final policy decisions are not made in December 2018, this will place pressure on the drafting of complex regulations. Temporary provisions will need to be made if the regulations are unable to be implemented from 1 July 2019.
- 126 Further, sufficient time is needed to develop a suitable information and education campaign and commence building a robust online tool to support the standards.

127 I propose the timeline set out in the table below to develop the healthy homes standards.

<b>Deliverable</b>	<b>Date</b>
Cabinet Social Wellbeing Committee Consideration	12 December 2018
LEG considers draft regulations	March 2019
Regulations are made	April 2019
Regulations come into force	1 July 2019

### **Compliance with the healthy homes standards**

128 As part of the HHGA four year budget allocation, MBIE's Compliance and Investigations team will undertake 2,000 risk-based interventions every year. The interventions will be based on those properties, individuals or organisations that pose the highest risk of non-compliance through risk profiling. The degree of risk will determine the approach as well as any enforcement response.

129 To give effect to the standards, the regulations may include methods for compliance with the standards. For example, with the heating standard, landlords may be required to provide confirmation that the heating assessment tool has been used to provide the correct sized heater, or a certificate has been issued by a suitably qualified heating engineer.

130 To empower tenants to make decisions about their home, the regulations will require landlords to include the tenancy agreement information on how the property complies with the healthy home standard. For example, in the ventilation standard, the tenancy agreement may require the landlord to specify the size of the extractor fan in the bathroom and kitchen, or explain why the premises are exempt from supplying mechanical ventilation.

### **Transitional provisions**

131 My officials are preparing advice on the transitional issues regarding the development and implementation of the standards. I propose that Cabinet delegate to me power to make minor and technical decisions on transitional and implementation issues.

### **Consultation**

132 In determining the proposed standards, significant consultation has taken place with government agencies, through public consultation, and with key industry stakeholders and building and health researchers. Further clarification on technical matters was sought from BRANZ where necessary.

133 The public consultation process was supplemented with workshops with targeted groups of stakeholders, such as the New Zealand Property Investors Federation, tenant advocacy groups, researchers, the Real Estate Institute of New Zealand, the Independent Property Managers Association, registered community housing providers, key building industry representatives, and iwi housing providers and health advocates.

134 The proposed standards were considered with the Energy Efficiency and Conservation Authority, the Ministry of Health, the Ministry of Social Development, Housing New Zealand Corporation, The Ministry for the Environment, Te Puni Kōkiri, Heritage New Zealand, the Treasury, and the Department of the Prime Minister and Cabinet. The Inland

Revenue Department was also consulted in the development of the options for the proposed standards.

- 135 The Ministry of Health has expressed a dissenting view on the option of heating living areas only because of the health risks associated with existing very low winter bedroom temperatures and existing infectious disease risks associated with functional crowding. The Ministry of Health recommends Option Two, to heat bedrooms as well as in living areas. This view is shared by Te Puni Kōkiri.
- 136 Ministry of Housing and Urban Development officials have also consulted with relevant agencies on the potential impact of the healthy homes standards on their housing stock, including Housing New Zealand Corporation, the Ministry of Social Development, the New Zealand Defence Force, the Ministry of Education, Land Information New Zealand, the Department of Corrections, and Te Puni Kōkiri. Detailed information on the impact on these departments, where it has been possible to determine, is set out in the 'Financial Implications' section below.

### **Financial Implications**

- 137 The healthy homes standards are likely to have financial implications on private and public landlords and tenants.
- 138 I asked my officials to consider what financial impact the healthy homes standards could have on the private rental market. They have advised that, while the standards will increase benefits for tenants, in the short term, it is possible that landlords may pass on their costs by increasing the rent of their rental properties.
- 139 The costs of implementing the healthy homes standards will be largely borne by landlords, with limited benefits accruing to them. However, it should be recognised that some upgrades may reduce damage to property and be mutually beneficial to both tenants and landlords. These costs will vary based on the condition of the property and the work required to meet the standards:
- 139.1 owners of high quality houses that already meet the standards will incur minimal costs
  - 139.2 owners of medium quality houses that require moderate improvements will incur some costs but it is likely they will stay in the rental market
  - 139.3 many owners of low quality houses that would need more substantial repairs to meet the standards are likely to face larger costs, and may be considering selling their property, either to another landlord with more capital available, or to an owner occupier.
- 140 A property is more likely to be sold where the costs of retrofitting are large, or if the requirement to comply with the standard applies earlier.
- 141 Tenants may face higher costs to run an increased number of heating devices. However, more efficient devices will be encouraged through the standards, the use of which could reduce energy bills (as well as atmospheric carbon emissions) compared with using less efficient devices. Most of the quantifiable benefits of the standards accrue to tenants through improved health and potential energy savings, as well as the unquantifiable benefit of comfort.

142 Tenants may be eligible for hardship assistance to meet the cost of heating their homes through the Winter Energy Payment and recoverable assistance from the Ministry of Social Development (e.g. through an Advance Payment of Benefit). Tenants may also become entitled to a greater level of Accommodation Supplement where costs of upgrades are passed on in the form of rent increases.

143 The proposed standards will likely have financial implications for Crown agencies. While these impacts are subject to change, depending on industry capacity and further clarity on the stock and quality of property, potentially affected agencies have advised the following impacts are possible.

*Public Housing Supply (MHUD)*

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s 9(2)(f)(iv)

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*Housing New Zealand Corporation (HNZC)*

148 Housing New Zealand Corporation has the largest rental stock on the country, with a portfolio of approximately 64,000 properties used for State Housing or Community Group Housing, and predominately subject to the RTA.

- 149 HNZN estimates additional costs of \$113M to 144M for known interventions, over and above existing planned programmes, plus a potential additional sum of \$77-99M for interventions that may or may not be required to meet the proposed temperature standard.
- 150 Until such time as the model is finalised for the temperature standard, it is not possible to assess with certainty whether existing measures installed in HNZN properties, such as 2.2kW panel heaters (29,000 across the portfolio) will meet the proposed temperature standard across all climactic zones. In light of the need to begin market sounding and contracting for the new programme of work imminently in order to meet a 2023 deadline, replacement of heaters has been included on a precautionary basis. Market soundings will also include a work programme to replace underfloor foil insulation in up to 20,000 properties at an estimated cost of \$43-53M.
- 151 This estimate does not include the cost of installing bathroom and kitchen extractor fans, which have already been costed and are currently being installed across the HNZN stock as part of the “Warm and Dry” programme. Properties that were not included in the “Warm and Dry” programme and still require these interventions have been included in the revised estimates.
- 152 Allowance has also been made for Community Group Housing, Transitional Housing, and state housing units located in complexes. These costs are unclear, as these properties are more likely to require bespoke solutions.
- 153 HNZN considers it can fund the required upgrades from its baseline, although the effects of this work on other existing planned programmes of work has yet to be assessed from a financial and market capacity perspective. Actual costs incurred are likely to be higher because HNZN may need to bring forward long term decisions to retrofit or redevelop properties, rather than incur additional short term cost for an older or unsuitable asset.

#### *New Zealand Defence Force (NZDF)*

- 154 NZDF currently owns and manages approximately 1,900 houses of which approximately 250 are rented to private tenants. The NZDF housing stock is aging and in some areas does not meet modern standards. The overall supply and demand for housing does not reflect current NZDF needs, as NZDF has shifted, or is about to shift its operations, to other locations to support operational effectiveness. Further, some of the land and the houses currently used by NZDF will be transferred to iwi as part the Treaty of Waitangi settlements.
- 155 As a result, NZDF is currently assessing its housing portfolio as part of the Defence Estate Regeneration Programme. The NZDF Housing Programme will conduct assessments of the condition and functionality of the current NZDF houses along with the cost of retrofitting or upgrading existing houses keeping in mind the healthy homes standards. This will be compared with the cost of building new homes for NZDF. Integrating the proposed healthy homes standards into the Housing Programme is expected to have a financial impact of s 9(2)(f)(iv) and s9(2)(g)(i)

#### *Ministry of Education (MoE)*

- 156 MoE owns approximately 482 houses, managed by Land Information New Zealand (LINZ). MoE pays for upgrades to these houses. LINZ considers most have been insulated to a basic standard, with working heat humps or wood burners, but the houses may not meet the proposed ventilation, draught stopping, moisture ingress, and drainage standards.

MoE estimates the cost of upgrading these houses to be up to \$4.8 million, and it should be possible to upgrade these houses within the timeframes given.

157 There are also 188 caretaker houses and 929 school houses which Boards of Trustees are responsible for.

#### *Treaty Settlements Landbank and Land Information New Zealand (LINZ)*

158 LINZ oversees a total of 430 residential houses in the Treaty Settlements Landbank. LINZ is working to reduce the number of houses as they transfer across to Iwi through the Treaty settlement process. Many of these houses have been held in the portfolio with years of deferred maintenance. LINZ would prefer a longer transition for any new standards to help fund the upgrade of houses in its portfolio and either transfer houses of a fair standard to Iwi through Treaty settlements or look to dispose of houses on the open market if overlapping claims in the area are completed.

159 These houses are predominantly in rural areas with a limited rental market. Most of the 430 residential houses managed by LINZ are insulated to a basic standard with working heat pumps/wood burners but the houses would likely not meet the proposed ventilation, draught stopping, moisture ingress and drainage standards. LINZ may need to seek additional government funding to help meet the healthy homes standards.

#### *Department of Corrections (Corrections)*

160 The Department of Corrections is responsible for 97 tenanted houses in the Auckland Prison Village of Paremoremo. Most of these houses are tenanted by non-Corrections staff, and around eight houses are vacant and available for rent at any one time. The Auckland Prison Village estate is managed by Colliers, under a contract with LINZ, and Colliers undertakes an inspection of this estate each year. The houses were built around 1960, in the state house style and constructed of wood; there is insulation beneath the floors and ceiling, and smoke alarms have been installed as a standard. Corrections would need approximately s 9(2)(f)(iv) and s9(2)(g)(i) additional government funding to help meet the healthy homes standards.

#### *Te Puni Kōkiri*

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s 9(2)(f)(iv)

### **Human Rights**

162 The proposals contained in this paper appear to be consistent with *the New Zealand Bill of Rights Act 1990* and the *Human Rights Act 1993*. A final view as to whether the proposals will be consistent with the *Bill of Rights Act* will be made when the regulations are drafted.

### **Legislative Implications**

163 I seek Cabinet's authorisation to issue drafting instructions to the Parliamentary Counsel Office to give effect to the recommendations in this paper that will create the new regulations.

## Regulatory Impact Analysis

164 The Treasury Regulatory Quality Team has reviewed the Regulatory Impact Assessment (RIA) “Healthy Home Standards” prepared by the Ministry of Housing and Urban Development and considers that that information and analysis meets the Quality Assurance criteria.

165 The proposal has been well consulted with key stakeholders. The proposal is supported by Cost Benefit Analyses prepared by the NZIER and the Ministry of Housing and Urban Development, which is summarised in the RIA. The RIA identifies the key risks, such as the tenant and landlord behavioural assumptions underlying the analysis. The analysis is constrained to the powers enabled under the Healthy Homes Guarantee Act, and is set out in the context of a wider number of related government initiatives

## Gender Implications

166 The proposals contained in this Cabinet paper have no gender implications.

## Disability perspective

167 People with disabilities, and their families, including children, have a critical need for housing which is safe and healthy. They are also more likely to live in rental housing, including boarding houses, due to low incomes. Tenants with disabilities, including people with age-related disabilities and those who spend longer indoors because they are house-bound, are more likely to experience illnesses in unhealthy rental housing. The healthy homes standards proposed in this paper will help to ensure that the needs of people with disabilities are better met for accessing healthy housing.

## Publicity

168 The Office of the Minister for Housing and Urban Development, in consultation with the Prime Minister’s Office, will manage any publicity.

169 The MBIE intends to undertake research in 2018/19 to identify the channels, collateral and timing of campaigns. This research will help determine the most effective way to communicate the standards to the diverse landlord/tenant markets.

## Recommendations

I recommend that the Committee:

- 1 **Note** that regulatory changes are required to support the *Healthy Homes Guarantee Act 2017*;
- 2 **Note** that the *Healthy Homes Guarantee Act* was passed in 2017 and that regulations (made under section 138B of the *Residential Tenancies Act*) to establish new standards will be required to be implemented between 1 July 2019 and 30 June 2024;

## Proposed healthy homes standards

- 3 **Agree** on the proposed standards for the healthy homes regulations as follows:

### *Heating standard*

- a. **agree** that landlords are required to provide fixed heating devices:

- i.* in the living room only (including open plan areas)



- f. **agree** that the following exceptions in the insulation standard (consistent with exemptions from the 2016 regulations<sup>59</sup>), if;
- i. it is not reasonably practicable to install insulation, e.g. inaccessible roof or underfloor cavity space;
  - ii. the landlord intends to demolish or substantially rebuild the home within 12 months and applied for any necessary resource consent or building consent [redacted] s 9(2)(f)(iv) [redacted] This exception applies for the relevant 12-month period or until any necessary resource consent or building consent lapses or is otherwise terminated;
  - iii. for 12 months from the date the tenancy commences, if the tenant is the former owner of the home, e.g. compulsorily acquired properties by the New Zealand Transport Agency in areas designated for roading projects

*Ventilation standard*

- g. **agree** the method of ventilation provided by landlords must be openable windows in the living room, dining room, kitchen, and bedrooms, unless an exception applies, and appropriately sized extractor fans in rooms with bath or shower, or indoor cooktop;
- h. **agree** the following exceptions to the ventilation standard should be included in the regulations;
- i. if, at the time the home was built, it received building consent even though it did not have an openable window(s) in the relevant location;
  - ii. [redacted] s 9(2)(f)(iv) [redacted]
  - iii. it is not reasonably practicable to install extractor fan(s);
  - iv. where the landlord intends to demolish or substantially rebuild the home within 12 months and applied for any necessary resource consent or building consent [redacted] s 9(2)(f)(iv) [redacted] This exception applies for the relevant 12-month period or until any necessary resource consent or building consent lapses or is otherwise terminated;
  - v. for 12 months from the date the tenancy commences, if the tenant is the former owner of the home, e.g. compulsorily acquired properties by the New Zealand Transport Agency in areas designated for roading projects;

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<sup>59</sup> Regulations 18 to 21 of the *Residential Tenancies (Smoke Alarms and Insulation) Regulations 2016*

#### *Moisture ingress and drainage standard*

- i. **agree** that landlords must ensure efficient drainage and guttering, downpipes and drains at their rental home, and wherever practicable ensure the subfloor, if enclosed, has a ground moisture barrier;
- j. **agree** that the following exceptions to the moisture ingress and drainage standard should be included in the regulations ;
  - i. where it is not reasonably practicable to install a ground moisture barrier, e.g. inaccessible subfloor cavity space
  - ii. where the landlord intends to demolish or substantially rebuild the home within 12 months and applied for any necessary resource consent or building consent s 9(2)(f)(iv) This exception applies for the relevant 12-month period or until any necessary resource consent or building consent lapses or is otherwise terminated;
  - iii. for 12 months from the date the tenancy commences, if the tenant is the former owner of the home, e.g. compulsorily acquired properties by the New Zealand Transport Agency in areas designated for roading projects

#### *Draught stopping standard*

- k. **agree** that landlords must stop any unreasonable gaps or holes in walls, ceilings, windows, floors, and doors that cause noticeable draughts, and block unused fireplaces and chimneys except where;
  - i. the landlord intends to demolish or substantially rebuild the home within 12 months and applied for any necessary resource consent or building consent s 9(2)(f)(iv)
  - ii. for 12 months from the date the tenancy commences, if the tenant is the former owner of the home, e.g. compulsorily acquired properties by the New Zealand Transport Agency in areas designated for roading projects

#### *Date to comply with the standards*

- l. **agree either:**
  - i) that landlords must comply with the standards within 90 days of a new or renewed tenancy, starting after 1 July 2022, with all homes compliant by 30 June 2024 (Option One A);

**or**

  - ii) that landlords must comply with the standards within 90 days of a new or renewed tenancy, starting after 1 July 2021, with all homes compliant by 30 June 2024 (Option One B)
- m. **agree** a single compliance date that aligns with the start date in recommendation 3l (i.e. 1 July 2021 or 1 July 2022) for all boarding houses;

- n. **agree** a single compliance date of 1 July 2023 for all Housing New Zealand Corporation rental homes and Community Housing Providers;
- 4 **Note** that the condition of any devices and appliances and products used must be safe and well maintained, and consistent with other expectations in the Residential Tenancies Act 1986;

### **Implementation**

- 5 **Note** that it is expected that the regulations will be submitted to Cabinet Legislation Committee for approval by 31 March 2019;
- 6 **Invite** the Minister of Housing and Urban Development to issue drafting instructions to the Parliamentary Counsel Office to give effect to the recommendations in this paper;
- 7 **Authorise** the Minister of Housing and Urban Development to make any further minor policy, transitional and technical decisions (including records required for compliance) necessary to bring regulations into effect by 1 July 2019;
- 8 **Note** that, subject to Cabinet's decisions, the Minister for Housing and Urban Development intends to publicly announce the healthy homes regulations in February 2019 and then Gazette the regulations in April 2019, to provide sufficient time for the Ministry of Business, Innovation and Employment to support the proposed Healthy Homes Standards through a public education and information campaign that will communicate the changes to landlords, tenants and building industry professionals to inform them of their new obligations, as well as issuing industry guidelines that will advise them of compliance and installation requirements, prior to the standards coming into effect on 1 July 2019;
- 9 **Authorise** the Ministry of Housing and Urban Development to place a copy of this paper and the minute of the Cabinet decision on its website;
- 10 **Note** the healthy homes standards are likely to have financial implications for Housing New Zealand Corporation, the Ministry of Social Development, the Ministry of Education and Land Information New Zealand, Corrections and the New Zealand Defence Force.
- 11 **Agree** the Ministry of Housing and Urban Development, consulting with impacted agencies as required, will report back to the Minister of Finance and the Minister of Housing and Urban Development on the fiscal implications to the Crown of the Healthy Homes Standards, and how they will be managed, ahead of announcing the standards.

### **The following annexes are attached to this paper:**

- Annex One: Summary of submissions analysis following public consultation on the healthy homes standards
- Annex Two: Further comments considered during consultation
- Annex Three: Regulatory Impact Statement

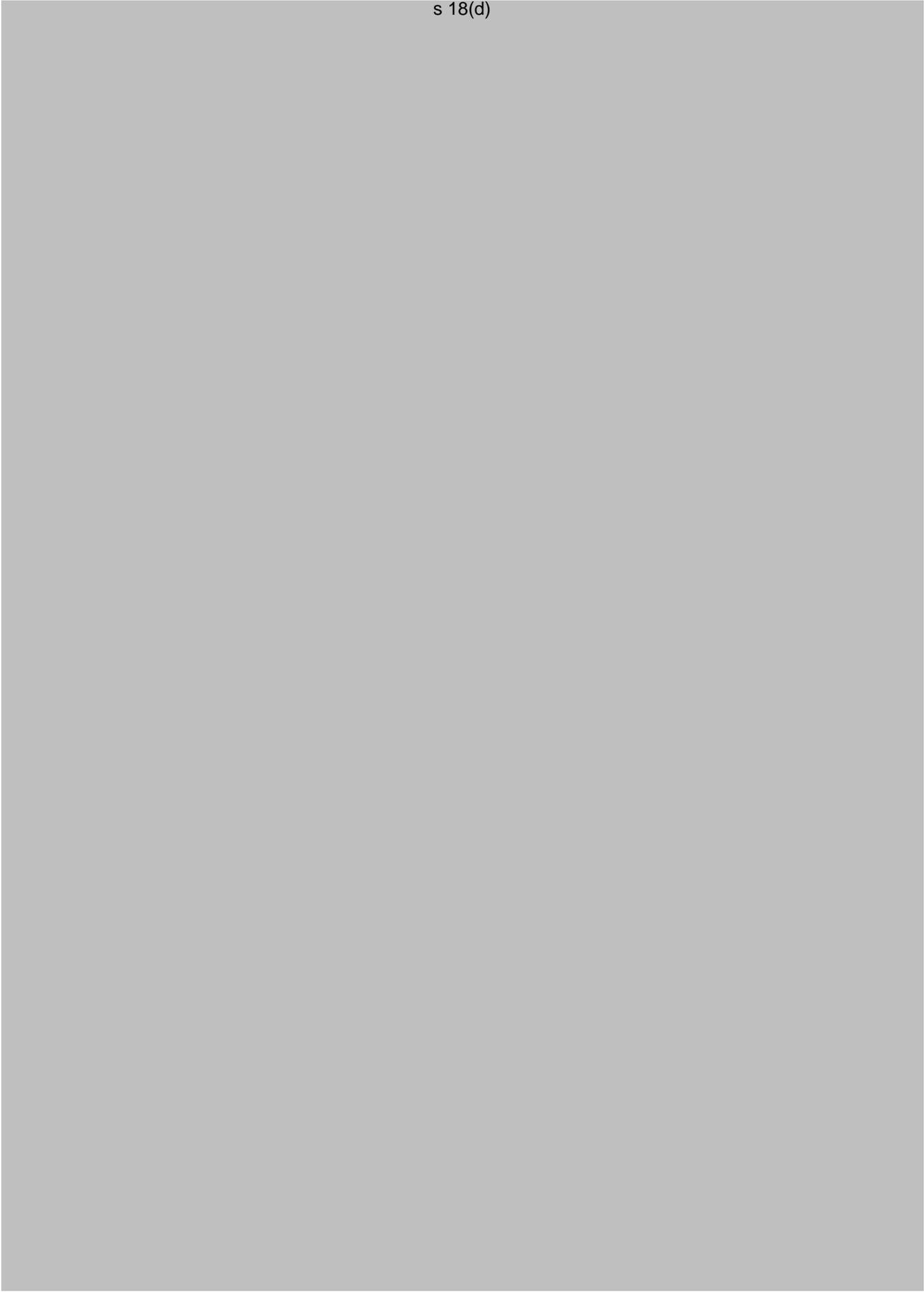
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