

**Act
on the new Regulation of Legal Provisions on Rent Caps**

11 February 2020

The House of Representatives has passed the following law:

**Article 1
Act on Rent Limitation in the Housing Sector in Berlin (*MietenWoG Bln*)**

First section

General provisions

§ 1

Scope of application

This Act applies to housing, with the exception

1. of housing in publicly subsidized housing construction
2. of housing for which public funds have been granted for modernization and repair and which is subject to rent control,
3. of living space which was ready for occupation for the first time after 1 January 2014 or, in individual cases, otherwise permanently uninhabitable and unoccupied former living space restored for residential purposes at a cost corresponding to a new building,
4. of living space in a dormitory, and
5. of housing rented or leased by a legal person under public law or a recognized private welfare institution for the purpose of providing persons with urgent housing needs, care, or participation needs.

§ 2

Responsibility, duties, and powers

(1) Tasks under § 5 shall be carried out by the Senate administration responsible for housing. The performance of tasks under §§ 7 to 9 shall be the responsibility of **Investitionsbank** ("Investment Bank") Berlin. In all other respects the performance of the tasks under this Act shall be the responsibility of the district offices.

(2) The district offices shall monitor compliance with the provisions of this Act, unless other authorities are responsible for implementation under paragraph 1. They may, of their own accord, take all measures necessary to implement this Act.

(3) The competent authorities under this Act shall be empowered to process data and in particular to transmit data to each other, insofar as this is necessary for the fulfilment of their tasks under this Act. In addition, they are authorized to provide tenants with information on the amount of rent permitted under this Act, even beyond a specific administrative procedure to be granted. Tenants, landlords, and persons acting on their behalf shall be obliged to provide the competent authority, on request, with the information and documents necessary for compliance with the provisions of this Act.

(4) The Senate administration responsible for housing shall be authorized to issue implementing regulations for the application of this Act.

Second Section

Permissible rent levels and prohibition of price increases

§ 3

Rent stop

(1) Subject to the following provisions, rent exceeding the rent effectively agreed as of 18 June 2019 (effective date) is prohibited. If a graduated or index-linked rent was contractually agreed, the rent owed on this effective date shall be decisive. Reductions in rent due to defects shall not be taken into account. Landlords shall inform the Tenants in writing or electronically of the rent agreed or owed on the effective date without being asked before the conclusion of a new tenancy agreement and at any time at the request of the Tenants or the competent district office.

(2) If living space that has never been let as living space on the key date has been let for the first time between the key date and the date of entry into force of this Act, the effectively agreed rent shall be decisive for the prohibition in accordance with paragraph 1. If living space is re-let after the key date and this tenancy continues at the time of the coming into force of the law, this effectively agreed rent is decisive for the prohibition according to § 1.

(3) If the rent permitted under subsections (1) and (2) above is less than EUR 5.02 per square meter of living space per month and if the apartment has two characteristics under § 6(3), the rent permitted under this Act shall increase by EUR 1 in the event of re-letting, but not more than EUR 5.02 per square meter of living space per month.

(4) The maximum limits laid down in paragraphs 1 and 2 shall be increased annually from 1 January 2022 by the percentage of inflation occurring since the reference date and ascertained by the Federal Statistical Office on 31 December of the previous year, but by no more than 1.3 percent. This does not apply if the upper limits according to paragraph 6 are exceeded as a result. The Senate administration responsible for housing determines the relevant percentage by statutory order.

(5) Rent within the meaning of this Act is the net cold rent including all surcharges.

§ 4

Rent ceilings

If living space is let again after this Act has come into force or if living space which has never been let as living space before is let for the first time, a rent exceeding the upper rent limits resulting from §§ 6 and 7 is prohibited for this and all subsequent tenancies, notwithstanding the provisions of § 3.

§ 5

Excessive rents

(1) Excessive rent within the meaning of this Act is prohibited. A rent is excessive if it exceeds the rent ceiling from §§ 6 or 7 paragraph 1, determined after consideration of the residential situation, by more than 20 percent and is not approved according to § 8. In order to take the residential situation into account, 0.28 EUR for simple residential situations and 0.09 EUR for medium residential situations are to be deducted from the upper limit. For good residential locations, 0.74 EUR are to be added to the rent ceiling.

(2) The Senate administration responsible for housing shall monitor compliance with the prohibition under subsection 1. It may take all measures *ex officio* that are necessary for enforcement in this respect.

(3) The Senate administration responsible for housing shall be authorized to determine the classification of the residential situation by statutory order.

§ 6

Rent table

(1) Maximum limits for determining the monthly rent permitted are calculated based on the living space of a dwelling in accordance with the following table:

Number	First-time occupancy of the apartment and equipment	Rental price per square meter
1.	until 1918 with central heating and with bath	EUR 6.45
2.	until 1918 with central heating or with bath	EUR 5.00
3.	until 1918 without central heating and without bath	EUR 3.92
4.	1919 to 1949 with central heating and with bath	EUR 6.27
5.	1919 to 1949 with central heating or with bath	EUR 5.22
6.	1919 to 1949 without central heating and without bath	EUR 4.59
7.	1950 to 1964 with central heating and with bath	EUR 6.08
8.	1950 to 1964 with central heating or with bath	EUR 5.62
9.	1965 to 1972 with central heating and with bath	EUR 5.95
10.	1973 to 1990 with central heating and with bath	EUR 6.04
11.	1991 to 2002 with central heating and with bath	EUR 8.13
12.	2003 to 2013 with central heating and with bath	EUR 9.80

(2) If the living space is located in buildings with no more than two apartments, the rent ceiling pursuant to paragraph 1 shall be increased by 10 percent.

(3) For living space with modern furnishings, the upper rent limit according to paragraph 1 is increased by 1 euro. Modern furnishings and fittings are deemed to be present if the living space has at least three of the following five characteristics:

1. a passenger lift accessible without thresholds from the apartment and from the entrance to the building,
2. fitted kitchen,

3. high-quality sanitary equipment,
4. high-quality flooring in the vast majority of living spaces,
5. an energy consumption index of less than 120 kWh/(m² a).

(4) Landlords shall, without being requested to do so, provide the tenants with information on the circumstances relevant to the calculation of the rent ceiling within two months of this Act coming into force. The landlords shall have the same obligation towards new tenants prior to the conclusion of the contract. The Senate administration responsible for housing must be provided with this information in any case upon request.

(5) The Senate administration responsible for housing is obliged to update the maximum limits for determining the monthly permissible rent in paragraph 1 by statutory order after the expiry of two years after this Act enters into force for the purpose of adjusting to the general real wage development in the State of Berlin.

§ 7

Rent after renovation

(1) If landlords increase the rent after the entry into force of this Act after renovation has been carried out,

1. on the basis of a legal obligation,
2. for thermal insulation of the building envelope, the basement ceiling, the top floor ceiling or the roof,
3. for the use of renewable energies,
4. for energetic window renewal,
5. for heating system replacement with heating system optimization,
6. for elevator mounting or

7. to remove barriers by removing thresholds, widening doors, or remodelling bathrooms

the Investment Bank Berlin shall be notified thereof electronically or in writing. In the case of modernization measures within the meaning of sentence 1, the permissible rent pursuant to § 3 and § 6 shall not increase by more than EUR 1 per square metre. Even in the event of multiple renovation measures during the period of validity of this Act, the permissible rent under this Act may not increase by more than EUR 1 per square meter in total.

(2) Subsection 1 shall apply accordingly to renovation measures which have taken place between the effective date and the entry into force of this Act. The rent increase shall be permitted from the date of entry into force of this Act if notification is given within three months of that date.

§ 8

Hardship cases

(1) In order to avoid undue hardship under this Act, the Investment Bank Berlin may, upon application by the landlords, authorize a higher rent than that permitted under §§ 3 to 6 for the current tenancy and all subsequent tenancies, insofar as this is necessary for reasons beyond the landlords' responsibility. The landlords may, for example, be responsible for such reasons: expectations of value appreciation, expected returns, financing costs outside the normal market, expected returns based on excessive rents, even independently of this Act, and losses resulting from the division into business units.

(2) Unfair hardship exists in particular if the retention of the rent permitted under §§ 3 to 6 would lead in the long term to losses for the landlords or to a threat to the substance of the relevant economic unit. A loss is deemed to exist if the current expenses exceed the income for the relevant business entity. A threat to the substance of the business entity exists if income from the business entity is no longer sufficient to maintain it. A business entity is an individual apartment if it is residential property (condominium), or a building or several apartments or buildings if they are jointly managed and are directly connected to each other.

(3) The Senate administration responsible for housing shall be authorised to determine in more detail by statutory order the criteria relevant to a hardship case.

Third section

Supplementary and final provisions

§ 9

Rent subsidy

If, pursuant to § 8, a rent is approved which exceeds the rent cap pursuant to § 6, tenants may apply to the Investment Bank Berlin for a rent subsidy in accordance with the provisions of § 2 of the Berlin Housing Act of 1 July 2011, as last amended by the Act of 20 July 2017 (GVBl. p. 380). The rent subsidy may not exceed the amount of the rent cap.

§ 10

Remedies

(1) Preliminary proceedings under § 68 of the Administrative Court Rules shall also be required if an administrative act under this Act has been issued by the Senate administration responsible for housing.

(2) Appeals against measures and decisions under this Act shall not have suspensory effect. The Senate administration responsible for housing shall decide on the appeal against an administrative act adopted on the basis of this Act and related administrative enforcement measures.

§ 11

Administrative offences

(1) It is an administrative offence to deliberately or negligently

1. fail to comply with, or comply incorrectly or incompletely with, the obligation to cooperate pursuant to § 2 paragraph 3 sentence 3,
2. fail to comply with, or comply incorrectly or incompletely with, the obligation to notify pursuant to § 3 paragraph 1,
3. fail to provide the information pursuant to § 6 paragraph 4, or provide it incorrectly or incompletely,
4. without the necessary approval pursuant to § 8, demand or accept a rent higher than that permitted under §§ 3 to 7, or
5. contrary to § 7, fail to notify the increase, or notify it incorrectly, incompletely or in good time.

(2) The administrative offence can be punished with a fine of up to 500,000 euro.

Article 2

Amendment of the General Safety and Order Act

The Annex to § 2 (4) sentence 1 of the General Safety and Order Act in the version published on 11 October 2006 (GVBl. p. 930), last amended by Article 3 of the Act of 9 October 2019 (GVBl. p. 685), is amended as follows:

1. point 1 is amended as follows:

a) In paragraph 4, the full stop at the end shall be replaced by a semicolon.

b) The following paragraph 5 is added:

“(5) the regulatory functions under § 5 of the Act on Rent Limitation in the Housing Sector in Berlin.”

2. point 15 is amended as follows:

a) in paragraph 6, the full stop at the end shall be replaced by a semicolon.

b) The following paragraph 7 is added:

“(7) the regulatory tasks pursuant to the Act on Rent Limitation in the Housing Sector in Berlin, unless the Investment Bank Berlin or the Senate administration responsible for housing is responsible.”

Article 3

Amendment of the Investment Bank Act

The Investment Bank Act of 25 May 2004 (GVBl. p. 226), last amended by Article 6 of the Law of 24 November 2015 (GVBl. p. 422) is amended as follows:

1) § 3 is amended as follows:

a) Paragraph 4 is amended as follows:

aa) In number 1, after the words “§ 28(2) bis 4 of the Housing Promotion Act” the word “and” is replaced by a comma.

bb) in point 2, after the word “condition” the word “and” is added.

cc) The following point 3 is added after point 2:

“(3) Measures pursuant to Articles 7 to 9 of the Act on Rent Limitation in the Housing Sector in Berlin”

(b) in paragraph 5, after the word “Controlled Tenancy Act” the word “and” is replaced by a comma and after the word “Housing Promotion Act” the words “and according to § 11 paragraph 1 number 1 and 5 of the Act on rent limitation in the housing sector in Berlin” are inserted.

2. in § 17(2), first sentence, after the word “support programmes”, a comma and the words “the performance of the tasks according to the Act on Rent Limitation in the Housing Sector in Berlin” are inserted.

Article 4

Entry into force, expiry

(1) Subject to sentence 2, this Act shall enter into force on the day after its promulgation in the Law and Ordinance Gazette for Berlin. Article 1 § 5 shall enter into force nine months after promulgation.

(2) Article 1 shall expire five years after its entry into force. Article 1 §§ 9 to 11 shall continue to apply after the date of expiry, to the extent and for as long as they have effect for the period of validity of this law.

Berlin, 11 February 2020

The President of the Berlin House of Representatives

Ralf W i e l a n d

The above law is hereby promulgated.

The Governing Mayor

Michael M ü l l e r

Translated by Wenke Christoph (RLS) from the original German, published 22 February 2020: <https://www.berlin.de/sen/justiz/service/gesetze-und-verordnungen/2020/ausgabe-nr-6-vom-22-2-2020-s-49-56.pdf>.