Executive summary
On 1 January 2019, new provisions on language requirements for work and residence permits, entered into force in Switzerland as a consequence of the revised Swiss Foreign Nationals and Integration Act (FNIA). The revised law defines the language skills of foreign nationals and their families as one of the integration criteria. This is in addition to other integration criteria which already apply.

In essence three permit categories will be impacted by the changes. Firstly, family members of non-EU/EFTA nationals who hold a B or C permit through the family regrouping provision are subject to language requirements. Children under 18 years are not covered under the new provisions. Secondly, B permit holders with permits converting into C permits will have to meet specific language requirements. Thirdly, for applicants for so-called “anticipated C permits”, the language requirements have been tightened.

Scope of new language requirements
For the initial visa application for family members of non-EU/EFTA nationals who hold a B or C permit (through the family regrouping provision) signing up to an offer of linguistic development is sufficient. Family members of non-EU/EFTA nationals who hold a B or C permit; are already in possession of a valid permit will now require a certificate of linguistic competency when filing the extension application. The A1 certificate exam needs to be completed with a recognized provider.

B permit holders who are converting their visa to a C permit will now have to meet specific language requirements (in addition to the other standard requirements for such a permit) and provide two certificates of linguistic competency. The level of the competency required varies between the cantons. For example, in the canton of Geneva an A2 level orally and an A1 level in writing is accepted, whereas the canton of Zurich requests language skills at level A2 (written and oral) confirmed by a language certificate from TELC, Goethe, ÖSD, TestDaF or KDE. The new language requirements do not apply to citizens from the following countries: Germany, Austria, Belgium, Denmark, Spain, France, Greece, Italy, the Netherlands, Liechtenstein and Portugal (this list has not changed under the new law).

Under the Swiss Foreign Nationals and Integration Act (FNIA), foreign nationals with five years of continuous residence in Switzerland can apply for an anticipated C permit. To do so, mandatory conditions need to be met which already included language requirements. With the new provisions, language requirements have been tightened for this group, so in the canton of Geneva language skills at level B1 (orally) and level A1 (written) have to be proven, while the authorities in the canton of Zurich demand language skills orally and written on a B1 level.

For C permit holders who do not comply with the integration criteria and language requirements, the authorities will be entitled to revoke the C permit and grant a B permit instead. In addition, not complying with integration criteria and associated language requirements may jeopardize a potential change of canton. It is still unclear how the authorities will monitor and apply these restrictions in practice.
Defining language skills

In general terms, language skills refer to the ability of a foreign national to communicate on a daily basis in at least one of the Swiss national languages. More specifically, the individual must be able to understand and to be understood in the language spoken at their place of residence. Stricter requirements may apply for certain activities.

Language requirements are deemed to be met if:

- The local language is the first language of the applicant. In particular, in cases where the language is used at home and has been learned from early childhood through parents or the social environment. It is very well mastered and frequently used to communicate.
- The candidate has studied the local language at school (in Switzerland or abroad) over a period totaling at least three years. If mandatory schooling (in Switzerland or abroad) has been attended in a national language spoken at the place of residence, then the language requirements are equally met.
- The applicant has acquired the necessary local language skills through studies in High School, a degree from University or participation in professional training (in Switzerland or abroad).
- The candidate has obtained a certificate of linguistic competence certifying the requested oral and written language skills (as mentioned above).

Moreover, the competent authorities may take the specific situation of the foreign national into account when assessing integration criteria. In particular, it is possible to waive the usual requirements if the individual cannot comply with these or can only comply with difficulty. This may be due to physical, mental or psychological disability, serious or long-term illness, significant difficulties in learning to read, write and speak, or extreme poverty.

Next steps

Until 1 January 2020, the acceptance of language certificates will be determined at the sole discretion of the canton of residence. After this date, generally only language certificates which meet the quality standards for language tests will be accepted. However, depending on the canton, language skills may also be recognized on the basis of previously obtained certification, even if the foreign national holds a language certificate which is not in accordance with the standards of the ALTE (the Association of Language Testers in Europe).

To date the cantons have not developed a common practice on the particular language requirements and the acceptance of language certificates. Likewise, detailed implementation rules and potential controls are still to be determined, hence creating uncertainty for Swiss employers and foreign nationals employed in Switzerland.

It is recommended that organizations consider that their foreign employees may be potentially impacted by the changes and to anticipate the provision of language courses to comply with the new requirements. Providing the appropriate language courses as part of the relocation process for new arrivals to Switzerland seems an appropriate measure to take.