

Briefing July 2017

Total Revision of the Swiss Citizenship Act – Naturalisation is only possible with a C-residence Permit

The Federal Council has decided to bring the revised Swiss Citizenship Act and the respective regulation into force on 1 January 2018. The new law is set to unify and harmonise naturalisation practices across the Cantons. The most important innovation is that a foreign national may now file an application for naturalisation after ten years' residence in Switzerland. This is a change from the previous minimum residence qualification period in Switzerland of twelve years. In return, the naturalisation is now only possible for foreigners who are in possession of a C-residence permit (C-Permit). There has also been a tightening up of various aspects of the naturalisation criteria. In a number of specific areas, the Cantons are still able to make higher demands as part of the naturalisation process. The new law will only be applicable to applications for naturalisation filed after 1 January 2018. For applications filed before this date, the existing law is still applicable.

Background

On 20 June 2014 the Swiss Parliament approved the revised Swiss Citizenship Act. In the meantime, the Federal Council drew up the relevant regulation. The regulation cements the decisive criteria set to demonstrate integration before naturalisation can take place as well as the proceedings for naturalisation at a federal level. The judicial competence to decide over the candidate's naturalisation still lies with the Cantons.

Requirement to have a C-residence permit (C-Permit)

The new law provides that the only persons qualifying for naturalisation will be those in possession of a

C-residence permit (C-Permit). Up until now, it had been possible to file an application for naturalisation for persons who fulfilled the requirements of residence, but who were not in possession of the C-Permit, but holding, for example, a B-residence permit (B-Permit).

According to the new law, the minimum residence requirement for naturalisation is lowered to ten years. The years between the ages of eight and eighteen will count as double.

In the future, only the years holding a B-Permit or a C-Permit will count. Any years with a short-term L-residence permit (L-Permit) will no longer support a naturalisation application.

Toughening of the integration criteria

The main focus of the change in legislation is on integration. The new law will strengthen integration criteria. A foreign person applying for naturalisation will only gain recognition as "integrated" when he/she respects the public order and the Federal Constitution, has good skills in the official language of the Canton where he/she lives, is an active participant in the economic life of the country or acquires an education at an appropriate level, supports the integration of his/her family and is fully familiar with life in Switzerland. In addition, the Cantons have the discretion to enact further integration criteria.

Adherence to public order and security

Ignoring official orders and the wilful non-fulfillment of obligations based on public or private law such as the non-payment of taxes, maintenance contributions or health insurance premiums will be obstacles against a naturalisation. Furthermore, a foreign applicant is not successfully integrated if a previous conviction is registered in the criminal records and accessible to the authorities. There are exceptions depending on the severity of the offence and the sentence imposed.

Respect for the values of the Federal Constitution

In order to become a naturalised citizen, a foreign person applying has to respect the values of the Federal Constitution. The purpose of this provision is to ensure that the only persons becoming Swiss citizens will be those who do not endanger both liberal democracy and the constitutional state. Essentially, the applicants have to recognise and respect the fundamental principles of the Constitution like the equality of men and women, freedom of expression and information, religious liberty, freedom of conscience as well as the duty to serve in the Swiss Armed Forces.

Knowledge of language

Having a firm knowledge of spoken and written language is a key part of a successful integration. Therefore, the Federal law provides that an applicant needs the ability to speak the local language to a level of B1 and be able to write in the local language to the level of A2 as laid down in the Common European Framework of Reference for Languages developed by the Council of Europe. This generally ensures that applicants have sufficient knowledge of a local language to be able to handle the most common situations they come across at home, in the workplace, in public spaces and as they exercise their political rights. According to Federal law, applicants do not need to have specific knowledge of Swiss German. The Cantons may, however, still require applicants to have a level of proficiency in the official language of their respective Canton. It will be possible to demonstrate this ability in different ways.

Participation in economic life or acquirement of education

Persons who want to be naturalised have to be able to cover their costs of living (including family commitments) independently or they have to provide evidence of further education or training at the time of filing the application. A person claiming or in receipt of welfare cannot be naturalised.

Supporting the integration of family members

According to the new law, a person who wants to be naturalised must support the integration of his/her family members, if there is a need for this kind of assistance. This prerequisite exists to prevent a person from acquiring Swiss citizenship, although he or she only integrates him- or herself, but does not deem it necessary to integrate their spouse for cultural reasons.

Familiarity with life in Switzerland

Some Cantons already have a so-called naturalisation test, in which they assess the applicants on their basic knowledge of civic education. The new law now provides a legal basis to formalise this, without stating any obligation for the Cantons to introduce such tests. Furthermore, persons that want to be naturalised are required to participate in social and cultural life in Switzerland. They must therefore, for example, be a member of a sports club or have regular contact with other Swiss citizens.

Reforms in the procedural law

The new law stipulates that the Cantons and municipalities remain competent when the person who wants to be naturalised moves to another municipality

or Canton during a pending naturalisation if the original authority has already conclusively examined the prerequisites of the naturalisation. This is to prevent duplication which existed under old law, because some Cantons dismissed the pending procedures and the new authorities had to begin again with an entirely new naturalisation process for the applicant.

Transitional provisions

The new law will enter into force as of 1 January 2018. It does not apply to applications for naturalisation submitted before 31 December 2017.

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Your Key Contact



Thomas Stoltz

Partner

T: +41 58 261 59 32

thomas.stoltz@baerkarrer.ch

Bär & Karrer Ltd.

Brandschenkestrasse 90

CH-8027 Zurich

Telephone: +41 58 261 50 00

Fax: +41 58 261 50 01

zurich@baerkarrer.ch

baerkarrer.ch

Zurich, Geneva, Lugano, Zug

