



# Prompt Legal Services

259A Keilor Road, Essendon, Victoria, 3040

property@promptlegalservices.com.au

Ph: (03) 9379-0877

## Solicitors Certificate

### National Credit Code

Banks are under ever-increasing scrutiny in ensuring their lending practices are considered responsible lending.

On 1 July 2010, the National Credit Code (NCC) came into effect. The NCC introduces updated facets to Licensing of credit service providers and Obligations regarding credit lending conduct. The Australian Securities and Investments Commission (ASIC) regulates the NCC.

### Lawyer Review or Solicitors certificate

Banks are required to meet the obligations specified under the NCC and as part of this may require you to speak to a lawyer after they have reviewed and advised on loan and/or guarantee documents. A solicitor may also need to provide a letter or confirmation of advice or a solicitor's certificate. Once this has been provided to your Lending institution, they can be confident that you understand your ongoing obligations as part of the loan.

Common situations include;

- Parents providing a Guarantee for a child's home loan
- Home Loan Guarantee – where the borrower is contributing less than 20% of property value
- Husband/Wife or de facto guaranteeing the debt of their partner
- Loans to Family Trusts

### Lawyers Responsibilities

We often have customers send these documents via email (which is fine) but then expect a lawyer from our firm to sign a letter of advice or solicitors certificate without providing advice. Our firm takes the NCC quite seriously and will refuse to do this. We also have the customers best interest at heart in ensuring they understand their ongoing loan obligations.

Our firm needs to review the documents to understand the parties, the obligations, security offered and loan amounts at hand. Then, give advice accordingly.

Remember, a lawyer cannot act for both the borrower and the guarantor, so unless they are the directors in the same, we cannot see both of these parties. Also, if language is an issue, an interpreter may need to be present.

### Appointment

We remind you to get documents to us early as they usually take some time to review. Documents can be emailed to us with originals produced at our appointment

### Identification Requirements

It is a critical part of your appointment to provide adequate identification. Certified Copies of identification usually needs to be provided to your bank along with the returning documents. 100 points of ID are required which is achievable with a Drivers Licence and Passport. If either of these are not available download "**100 Points of Identification Guidelines**" from our website.

### What does it cost?

Persons	Price (ex GST)
1	\$295
2	\$445
3	\$545
4	\$635

*\* Prices are exclusive of GST  
and are valid until 1 July 2019*

### Financial Advice

Remember that we cannot provide you with financial advice so will not comment of whether the deal is a good one or not. You should seek advice from an appropriate financial advisor or accountant.

### Where did all of this procedure come from?

After the Amadio case in 1983, the major banks became nervous that Guarantor parents could get out of the Guarantee by saying that they didn't understand. The Amadio were Italian migrants in their 70's, with limited English skills and education. Similar cases such as Garcia occurred when wives signed Guarantees for their husbands benefit without properly understanding the implications. Again, the bank was unable to enforce the Guarantee given by the wife. The banks response to the Amadio and Garcia cases was to require Guarantors obtain a Certificate of independent legal advice so that the banks were protected.