

**CONSUMER AFFAIRS AMENDMENT BILL 2006**

**EXPLANATORY MEMORANDUM—(No. 130—1B)**

*(Introduced by Dr Jacobs, MLA)*

- Clause 1.** Short title will be *Consumer Affairs Amendment Bill 2006*.
- Clause 2.** The commencement will be on the day on which it receives the Royal Assent.
- Clause 3.** The amendment is of Part 3 of Section 18.
- Clause 4.** Section 18 is amended by deleting the words “where the amount claimed or involved in either cases does not exceed the sum of \$40,000”.
- Clause 5.** So it then reads, “Where after a complaint or matter has been made or referred to the Department the Commissioner is satisfied that a consumer has a cause of action or a good defence to an action and that it is the public interest or proper so to do, he may, on behalf of the consumer institute legal proceedings against any other person or defend any proceedings brought against the consumer, with the view to enforcing or protecting the rights of the consumer in relation to any infringement or suspected infringement by that other person of those rights or of any of the provisions of any Act or any other law relating to the interests of the consumers”.

What is occurring in WA under the present *Consumer Affairs Act 1971* is that the Commissioner for Fair Trading even if he/she has a cause of action or a good defence to an action cannot institute legal proceedings for a consumer, if that action or defence to an action involves an amount of in excess of \$40,000. There are scenarios in WA in particular pertaining to land acquisition where the Commissioner can be prevented, restricted and even frustrated by the legislation as it stands. For this reason the amendment seeks to remove what is an impediment to the power of the Commissioner in acting for consumers, by deleting this unnecessary upper limit.