

T031

Delays in activating the Consumer Credit Act 1974

Mr Landman (25 January 1983) takes a sentence of my book *Consumer Credit Control* out of context and bases on it some conclusions that are very wide of the mark. The sentence is part of the general explanation of the system of composite restatement of Acts and statutory instruments. In the book the system is applied to the Consumer Credit Act 1974, but it has no particular reference to that Act. The delay in bringing the 1974 Act fully into force is not due to the drafting of the Act, and nothing would be gained by following Mr Landman's suggestion of asking the Law Commission to redraft it. The Law Commission do not in any case draft Bills themselves. They use ordinary draftsmen who are on secondment from the Parliamentary Counsel Office.

Nor is the delay due, as again Mr Landman states, to the use of the Consumer Credit Bill as a political football. Quite the contrary. It enjoyed the rare distinction of being successfully introduced by each of the major parties, the general election of 1974 intervening. It was, as the Labour spokesman said without contradiction (Hansard, 14 November 1973, col 520), a bipartisan Bill.

The delay is due to two factors. One is the complexity of the credit and hire industry, and of the close controls the Act imposes on it. The other is political dithering by a succession of Ministers. It is the latter that has been crucial. I agree with Professor Goode (22 January 1983) that the delay it has caused has now become intolerable. Replying to the second reading debate, Mr Michael Heseltine said (Hansard, 14 November 1973, col 587):

'We shall want to move rapidly on the "truth in lending" provisions, and there is no reason why we should not. We hope to see those regulations coming within weeks of the Bill receiving Royal Assent.'

One of the key 'truth in lending' provisions is section 60, which has been in force since 31 July 1974. Its effect is to place a direct and unconditional duty on the Secretary of State to make regulations about the form of credit and hire agreements, with a view to protecting the consumer. The regulations have never been made. That is but one example of the extraordinary delays that have occurred. My own view is that this matter has now passed beyond maladministration into the realm of illegality. There is an implication that a statutory duty imposed on a Minister is to be performed within a reasonable period. It is nearly nine years since the section 60 duty was imposed. The successive Secretaries of State concerned have been in breach of it for a considerable time.¹

¹ *The Times*, 3 February 1983.