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## Editorial

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### Reform of Credit Law —

#### How Much Longer Must We Wait?

The draftsman of the Consumer Credit Act faced a formidable task. His brief was to give effect to those recommendations of the Crowther Committee relating to consumer credit, by replacing existing consumer credit legislation with a new enactment that would encompass all forms of consumer credit, classifying and regulating these on a functional basis. He had to cover a wide diversity of credit instruments and institutions and to create a new framework of legal relationships. The importance of reform in this field of law had been apparent to all political parties, and successive governments moved with commendable speed. The Crowther Committee reported in March 1971. After extensive consultations with interested parties the Government produced its White Paper on the *Reform of the Law on Consumer Credit* in September 1973. The draftsman had his Bill ready in under two months, an astonishing performance. The Bill was substantially advanced through Parliament by February 1974 when it was lost as the result of a general election. However, the new administration reintroduced the Bill almost immediately and in July, its length having doubled through amendments, it was passed. Despite its defects the Act is a tour de force in which the draftsman brilliantly captured the conceptual framework laid down by the Crowther Committee; and all this was achieved in less than three and a half years.

All the more lamentable, then, is that now, nearly *nine years* later, large parts of the Act have yet to be brought into force. The rules as to the form and content of agreements, the cooling-off provisions, the sections providing for the debtor's right to information and documents, to notices of default, to early settlement and

rebates, to judicial protection through time orders and the like, all these and many other provisions have yet to be implemented. The Department's forecasts – “soon”, “shortly”, “in the Spring”, “early Summer”, “by the end of the year” – repeated at intervals since December 1974 have become a threadbare joke. When Parliament decrees that regulations “shall” be made, it is surely the responsibility of government to ensure that no more time is spent than is reasonably required to formulate its proposals, to consult and to translate its conclusions into the requisite statutory instruments. To allow nearly a decade to elapse and still be making promises is simply unacceptable.

This is not all. The Consumer Credit Act embodies only the first (or more accurately, the second) half of the Crowther Committee's recommendations. The other half is the fundamental restructuring of the law relating to security interests in personal property. The Crowther Committee demonstrated with great particularity the parlous state of English law relating to secured transactions: the artificial distinction between title reservation and purchase-money chattel money; the consequent failure of the law to require registration of title reservation; the lack of any coherent policy in relation to competing claims to an interest in an asset. Nothing was done, and it was not long before the decision in the *Romalpa* case brought home the serious consequences for receivers, liquidators and creditors generally of allowing unregistered reservations of title to bind innocent third parties. America dealt with this problem thirty years ago in Article 9 of the Uniform Commercial Code, now operative in forty-nine of the fifty jurisdictions. In Canada three of the Provinces have now enacted similar legislation, and others are likely to follow suit. The Cork Committee has added its own plea for implementation of the Crowther Committee's proposals in this field. Let us hope that the government will now act and introduce some semblance of order into a branch of law of vital importance to the smooth functioning of commercial transactions.