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R&D legislation to finally pass Senate as Greens pledge support

Patrick Stafford

Experts and industry have welcomed the highly anticipated new laws for research and development grants, with Innovation Minister Kim Carr announcing the new scheme will commence from July 1 and provide quarterly payments to small businesses instead of annual credits.

The new laws found support from crossbench senators and has also been welcomed by the software industry, which has pushed the Government to allow software research to be eligible for grants under the legislation.

The passage of the bills comes after the Greens and independent senators pledged their support for the bill, with the Greens introducing an amendment that will provide quarterly payments to SMEs instead of on an annual basis.

The party, which will hold the balance of power in the Senate after July, says it was prompted to do so to help support SMEs.

The start date of July 2011 also means the legislation will not start retrospectively as Carr had previously planned.

Institute of Chartered Accountants tax counsel Yasser El-Ansary says this particular component gives clarity to small businesses on how they will spend their money.

"The Government had to concede applying the legislation retrospectively was going to represent some major compliance and administrative problems not just for businesses but for the administration of the system as well."

"You can't go about major reform of a significant part of the tax system and do that on a retrospective basis – it just doesn't make sense."

The Government said the deferral of the start date will have an impact of \$40 million, costing \$310 million in 2011-12 but saving \$270 million in 2012-13.

Carr said in a statement yesterday the new system will provide a 45% refundable tax credit to companies with turnover less than \$20 million, and a 40% non-refundable offset to businesses with turnover above that figure – this is the same as the original proposal.

But the biggest change will see SMEs receive quarterly payments instead of on an annual basis, although this will only begin from January 2014.

"These firms will get their credit sooner, significantly improving their cashflow and incentive to invest in R&D," Carr said.

However, some are still calling for further amendments. PwC partner Sandra Mason says while the new start date is welcome, further clarification on critical tests included in the legislation is needed.

"I'd like to see further discussion on the dominant purpose test, and we're hopeful there will be more amendments further on. We also want to see further clarification on the building expenditure exclusion, and on feedstock provisions."

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"The cashflow benefit won't come in until 2014, so it's difficult to comment on the impact of that. But it's not clear whether that will be for companies earning less than \$20 million, so we're interested to see more details on that."

Carr has said the Government will set up an advisory group through Innovation Australia to consult with businesses about the new credit and monitor its performance.

As a result, Mason says it is hopeful that more amendments will be made.

The Greens welcomed the announcement, with deputy leader Christine Milne saying the inclusion of quarterly payments was due to "lengthy consultation" with industry.

"Innovation is critical to our economy, to our health, to our environment and it is vital that government support is as effective and efficient as possible," Australian Greens Deputy Leader, Senator Christine Milne, said.

"The amendment secured by the Greens will help even more, ensuring that those smaller companies will have access to the cashflow they need to drive their ideas from innovation through to market.

Business has also welcomed certainty on the credit, which has been under development and review in Parliament for nearly two years.

The Australian Information Industry Association said the R&D credit will provide technology and software companies with certainty on how they conduct their research.

"This Bill has a significant impact on all businesses conducting R&D activities, as well as a number of retrospective components, so it is essential that organisations have the opportunity to plan for the future with certainty," chief executive Ian Birks said.

Industry body AusBiotech welcomed the statement, saying that "start-up innovation companies, especially biotechnology companies trading in loss, are set to be the big winners".