

**PROMOTING START-UP ENTERPRISES THROUGH
SUPPORT ACTIVITIES FOR SMALL AND MEDIUM
ENTERPRISES IN VIETNAM - CURRENT STATUS
AND PERFORMANCE DIRECTIONS**

**Nguyen Thanh Phuong¹, Dinh Tran Ngoc Huyen², Tran
Thanh Khoe³, Nguyen Hoang Thanh Truc⁴**

^{1, 2, 3} Faculty of Law, Nam Can Tho University

⁴ Faculty of Economics, Nam Can Tho University

Abstract

The COVID-19 pandemic has seriously affected life as well as production and business. According to data from the Business Registration Administration, the total number of newly established enterprises in 2021 is 116,839, down 13.4% compared to 2020, the number of businesses returning to operation is 43,116. down 2.2% compared to 2020. To promote economic recovery, the Government has issued and implemented many fiscal-monetary policies. In addition, many legal policies to support small and medium-sized enterprises were born. structuring, the article will focus on pointing out the current state of legal regulations related to the support mechanism for small and medium-sized enterprises, naturally a proposal to improve the support mechanism for small and medium-sized enterprises. small and medium in the current period .

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**CORRESPONDING
AUTHOR:**

Nguyen Thanh Phuong
nguyenthanhphuong099@gmail.com

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1. Ask a problem

The small and medium-sized enterprise sector accounts for about 98% of the total number of enterprises operating in our country, equivalent to about 1.7 million enterprises. It is forecast that by 2030, this group of enterprises will increase by about 2.4 million businesses. These businesses contribute about 45% to GDP, 31% to total budget revenue, and attract more than 5 million workers (Minh Dung, 2022). In the context of a volatile economy due to epidemics and political conflicts directly affecting more than 90% of businesses in this area, in the first quarter of 2022, a number of businesses were forced to temporarily suspend business for a limited period of time, equivalent to 35,700 businesses, an increase of 49.7% over the same period in 2021. There are 11,300 businesses ceasing operations waiting to carry out procedures related to dissolution, this number has an increase of 0.1% compared to the same period in 2021. Notably, more than 4,300 businesses have completed procedures for business dissolution, including 3,800 businesses with capital of less than 10 billion VND (Chau Ha, 2022).

In general, since the 2017 Law on Support for Small and Medium Enterprises was promulgated, with the goal of specifically guiding the contents of this law, the legal framework implementing the Law on Support for Small and Medium Enterprises has changed. Completed with 05 Decrees and 13 Circulars. As of March 31, 2021, localities have issued 581 Resolutions, Programs, Plans, Schemes, and Documents guiding SMEs according to the contents of the Law (Vu Thi Tuyet Loan 2020, 29). The introduction of the Law on Support for Small and Medium Enterprises aims to make private sector enterprises an important driving force for economic development. However, assessment of the results of implementing 10 business support programs within the framework of the Law on Support for Small and Medium Enterprises through the 2021 Provincial Competitiveness (PCI) survey project from VCCI shows that the Enterprises benefiting from support policies from the program are still at a modest level. The percentage of businesses supported by programs is below 8%. The support program with the highest rate of access for businesses is credit guarantee at the Small and Medium Enterprise Credit Guarantee Fund, but it is estimated that only 7.34% of businesses have accessed the fund. This. In addition, there are still about 51.3% of businesses that do not know about the Law on Support for Small and Medium Enterprises. Among businesses that have access to this Law, only about 36.8% have received one of the support programs from the Law. Faced with the above survey results, many opinions believe that it is necessary to make appropriate adjustments in implementing the Law on Support for Small and Medium Enterprises, in the context that the business community is in need of more timely support, time to recover after more than two years of struggling with the Covid-19 pandemic (Vu Khue, 2020).

2. Current status of legal regulations on support activities for small and medium-sized enterprises in Vietnam

In the context of the world's political and economic situation changing rapidly, complicatedly and unpredictably. Economies globally have been weakened by the impact

of the Covid-19 pandemic. Aiming to restore and grow the economy, our country has promoted the application of policies from the Law on Support for Small and Medium Enterprises in 2017. Despite certain progress, shortcomings still exist. should be removed as follows:

First, some terms have not been explained clearly. According to Clause 2, Article 3 of the 2017 Law on Support for Small and Medium Enterprises, it is stipulated: "*Innovative start-up small and medium-sized enterprises are small and medium-sized enterprises established to implement ideas on the basis of exploiting assets. intelligence, technology, new business models and the ability to grow rapidly* . Some opinions believe that the way to interpret this concept is still "vague", because the meaning of the phrase: "capable of rapid growth" has not yet been clarified. Accordingly, it is necessary to distinguish between businesses that are "capable of rapid growth". This has so far not been specifically explained through laws or implementation guidance documents. Since then, there is not enough basis to support small and medium-sized enterprises to transform from creative start-up business households to join industry clusters and value chains on the basis of applying Articles 16 to 19. Law on Support for Small and Medium Enterprises 2017.

Second, aim to expand production scale, as well as create conditions for production business households to convert to establish small and medium-sized companies, in order to benefit from the policies at Point b, Clause 1. Article 16 of the 2017 Law on Support for Small and Medium Enterprises is relevant for this economic sector such as: "*Exemption and reduction of corporate income tax for a limited time according to the provisions of law on corporate income tax; Exemption or reduction of land use fees for a limited period of time according to the provisions of land law; exemption of business registration fees and fees for providing business information for the first time; Free appraisal, fees, and charges for first-time business licenses for conditional business lines; exemption of license fees for a period of 03 years from the date of issuance of the first Business Registration Certificate* ".... Accordingly, the conditions for business households to convert into small and medium-sized enterprises are based on According to Clause 2, Article 16, it must be in the following category: "*Business households with continuous production and business activities for at least 01 year up to the date of issuance of the first Business Registration Certificate*".

Regarding this regulation, according to many opinions: "in the context of the complicated Covid-19 epidemic, the number of individual business households is guaranteed to maintain continuous production and business activities at least. 01 year has a low rate; Most operate by maintaining production and business. In case of difficulty, production will be temporarily suspended for a certain period of time. When conditions for development arise, operations will be re-registered." From there, accessing the support policies in Clause 2, Article 16 of the 2017 Law on Support for Small and Medium Enterprises will be very difficult, which makes business entities in the form of business households unwilling to do so. transform into a business (Gia Nguyen, 2022).

Third, in the context of a volatile business market, legal support for small-scale businesses is extremely necessary. Many localities have developed business and law programs on television; or open short-term training courses on business law for businesses;

Aiming to limit risks and legal problems for businesses, contributing to improving competitiveness in the context of digital transformation. In addition, the Government also issued Decree 55/2019/ND-CP directly regulating the issue of legal support for small and medium-sized enterprises. However, in practice it is still difficult to implement. Because in the end, to implement it, we need adequate human and material resources; However, the law has not specified the qualifications of the consultant network; The structure, organization, and staff working on legal support for businesses in state agencies are not stable, nor have they specified the funding source to ensure this activity, even though Circular 64/ 2021/TT-BTC has issued instructions, but has not yet specifically adjusted the funding issue for this activity in localities (Thuy Phuong, 2022).

Fourth, in Clause 5, Article 5 of the 2017 Law on Support for Small and Medium Enterprises, it is stipulated: *"In cases where many small and medium-sized enterprises meet the support conditions prescribed by the Law, priority will be given to selecting the enterprise that small and medium-sized enterprises owned by women or enterprises that employ more female workers .* In addition, the law also has a number of policies to support small and medium-sized enterprises owned by women such as Circular 05/2019/TT-BKHDT of the Ministry of Planning and Investment, with the following subjects: Students of small and medium-sized enterprises owned by women participating in business start-up, business administration and intensive business management training courses will receive 100% tuition support from the State. In addition, Clause 3, Article 14 of the 2013 Bidding Law stipulates: *"Subjects eligible for incentives when participating in domestic bidding to provide consulting services, non-consulting services, and construction include: a) Contractors with 25% or more of their employees being women; c) The contractor is a small business."*

Incentives for small and medium-sized businesses owned by women are noted to be insignificant or not yet detailed and specific. For example, issues in accessing information, participating in the value chain, etc. have not yet been specifically regulated, or documents issued to guide the issue. As for human resource development support programs, the law only focuses on tuition support programs, without clarifying or specifying measures aimed at improving the quality of human resources at enterprises due to Women are small and medium-sized entrepreneurs. In addition, with preferential policies when participating in domestic bidding to provide consulting services, non-consulting services, and construction; Realizing that small and medium-sized businesses owned by women will be given priority when their documents are ready and have been submitted, but there are no regulations to assist with legal procedures regarding documents. or falsify documents proving that the business is eligible to enjoy incentives related to women-owned businesses.

Fifth, it is basically noticed that only 6 out of 15 recommendations specified in the 2017 Law on Support for Small and Medium Enterprises are guided for implementation through Decrees, Decisions or Circulars. Accordingly, these recommendations include: Access to credit has been specified by Clause 2, Article 13, Clause 5, Article 7 of Circular 39/2016/TT-NHNN; Credit institutions are required to develop loan products and related procedures/policies for small and medium-sized enterprises with the goal of 50-60% of

these enterprises having access to loans from credit institutions, this is specified in Decision 1726/QĐ-TTg; Decree 34/2018/NĐ-CP, Decree 39/2019/NĐ-CP were issued to adjust the credit guarantee fund and development fund for small and medium enterprises; The accounting regime is specified in Circular 132/2018/TT-BTC; related to consulting and legal issues specified in Circular 06/2019/TT-BKHDT; Human resource development issues specified in Circular 06/2019/TT-BKHDT; Circular 49/2019/TT-BTC; The issue of Women Startups was approved by Decision 939/2017/QĐ-TTg of the Prime Minister. Regarding the remaining nine recommendations, it remains unclear. Through this, lawmakers need to concretize the remaining recommendations and support policies through Circulars or Joint Circulars. If there is no guidance and detail on the issue, in general, support policies will be "support on paper, not based on actual needs".

Sixth, the promulgation of legal documents, projects, and programs to implement the Law have not met the expectations of businesses. Because in general, although the Law on Support for Small and Medium Enterprises was born in 2017 and took effect in 2018, the Decrees or Circulars guiding this law were all issued from 2019-2020. In addition, most plans, programs, and projects to support local small and medium-sized enterprises are only beginning to be implemented in 2020. This leads to the consequence that in 2018, In 2019, competent agencies and organizations do not have enough basis to arrange funding to support small and medium-sized enterprises. In addition, the Draft Business Support Program for the period 2021 to 2025 was developed by the Ministry of Planning and Investment and submitted to the Prime Minister since December 2019, but has been abolished and will not continue. Develop 2 programs to support small and medium-sized enterprises. Since then, practical implementation has encountered many difficulties. At that time, the State issued Decree 80/2021/NĐ-CP with the goal of presenting programs to support small and medium-sized enterprises, but up to now, there has not been a Circular guiding the implementation of these regulations. program content or in the case of the Law on Support for Small and Medium Enterprises was issued in 2017, but Circular 49/2019/TT-BTC was issued and took effect from September 23, 2019. The problem is that the budget for implementing these supports can only be disbursed when there is a circular from the Organizing Committee. This also means that small and medium-sized enterprises can only access the first financial supports under the 2018 Law on Support for Small and Medium Enterprises from October 2019" (Vu Thi Bich Hao 2022, 31).

Seventh, post-enactment policy impact assessment is not required or closely monitored in most legal regulations. Guidance for this issue can be found in Article 31 of the 2017 Law on Support for Small and Medium Enterprises, which stipulates: *"Agencies and organizations presiding over the implementation of content and programs to support small and medium-sized enterprises organize Organize the assessment of implementation results, expected impacts on support subjects and publicize the assessment results in the forms specified in Clause 2, Article 29 of this Law. The Ministry of Planning and Investment periodically organizes independent assessments of the impact of content and programs to support small and medium-sized enterprises .* However, when comparing the issue in Decree 39/2018/NĐ-CP related to impact assessment requirements, it has not been

mentioned in this document. Accordingly, in Article 39/2018/ND-CP Decree only raises the issue: *"The Ministry of Planning and Investment is responsible for coordinating with ministries, ministerial-level agencies, Government agencies, People's Committees of provinces, Centrally run cities implement this Decree and annually report to the Prime Minister on the implementation situation. Ministers, Heads of ministerial-level agencies, Heads of Government agencies, Chairmen of People's Committees of provinces and centrally run cities are responsible for implementing this Decree "* (UNWomen, 2020).

3. Some recommendations to improve support activities for small and medium enterprises

The prolonged Covid-19 pandemic has directly impacted the production process of small and medium-sized enterprises. Although, the State has issued many preferential policies, as well as documents aimed at supporting these businesses to overcome difficulties, and have flexible solutions to survive and develop. Regarding small and medium-scale support mechanisms, it is urgent in the current period. Towards perfecting these issues, I think:

Firstly, there needs to be a guiding document related to the concept in Clause 2, Article 3 of the 2017 Law on Support for Small and Medium Enterprises. Accordingly, it is necessary to clarify the meaning of the phrase: "capable of rapid growth". This will be one of the important grounds, as well as the basis for applying and implementing support policies for innovative small and medium-sized startups (as stipulated in Article 16 - Article 19). Law on Support for Small and Medium Enterprises 2017). In addition, to promote and create conditions for production business households to convert to establish small and medium-sized companies, in order to benefit from relevant policies, the law needs to have directions to adjust and eliminate Remove the condition in Clause 2, Article 16, must be in the category: "business households with continuous production and business activities for at least 01 year up to the date of issuance of the first Business Registration Certificate".

Second, legal support activities for businesses need funding to ensure funding, but local funding for this activity is still very limited, requiring support from the central government, especially the government. shares from activities under the Government's legal aid program. From there, the Ministry of Justice needs to soon deploy the activities of the legal consultant network to localities, and at the same time provide specific instructions on support procedures and consulting costs. When sufficient operating costs are met, it will be a premise to mobilize a team of experts with extensive practical experience in a number of legal support activities for businesses (Pham Van Chung, 2023).

Third, for small and medium-sized businesses run by women, it is necessary to specify measures aimed at improving the quality of human resources of businesses. With preferential policies when participating in domestic bidding to provide consulting services, non-consulting services, and construction; It is recognized that small and medium-sized businesses owned by women will be given priority. However, for these businesses to easily access policies, records, procedures, etc., there needs to be guiding documents, as well as regulations on which agencies and functions will have the support function.

Fourth, regarding the recommendations and support mechanisms specified in the 2017 Law on Support for Small and Medium Enterprises. Basically, only 6 out of 15 recommendations specified in the Law on Support were received. Small and medium-sized enterprises in 2017 are guided to implement through Decrees, Decisions or Circulars. Through this, it is necessary to concretize the remaining recommendations and support policies through Circulars or Joint Circulars. If there is no guidance and detail on the issue, in general, support policies will be "support on paper, not based on actual needs". Besides, as analyzed, the promulgation of legal documents, projects and programs to implement the Law is still slow. This leads to the lack of timely access to preferential and support policies from the State. Lawmakers need to strengthen the issuance of guiding documents in a timely manner, ensuring the best related matters. to the legal rights and interests of small and medium-sized enterprises according to the Law on Support for Small and Medium Enterprises 2017.

Fifth, there needs to be rigorously established mechanisms related to the assessment of expected impacts on support subjects and the publicization of assessment results. Accordingly, these statistics will be a premise to help lawmakers consider legal amendments to suit the actual situation. However, regulations related to this issue are not consistent between Article 31 of the 2017 Law on Support for Small and Medium Enterprises and Decree 39/2018/ND-CP. From there, additional amendments are needed in Decree 39/2018/ND-CP related to issues where agencies implementing support policies need to assess the expected impact on support subjects and make the results of this assessment public. With analysis related to the law on supporting small and medium-sized enterprises, as well as proposed solutions, it will be one of the reference bases, helping lawmakers perfect this mechanism in the future. close future.

Conflicts of Interest

The authors have disclosed no conflicts of interest.

Author's Affiliation

Nguyen Thanh Phuong¹, Dinh Tran Ngoc Huyen², Tran Thanh Khoe³, Nguyen Hoang Thanh Truc⁴

^{1, 2, 3} *Faculty of Law, Nam Can Tho University*

⁴ *Faculty of Economics, Nam Can Tho University*

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