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The South Korean government to provide support to entrepreneurs from all over the world, with the aim of expanding its economic territory beyond the borders of the nation

On February 20, South Korea's Cabinet passed a partial amendment to the Support for Small and Medium Enterprises Establishment Act and its Enforcement Decree.

The amendments clarify the meanings of "starting a business overseas" and "foreign startups" and provide a framework allowing startups to expand globally..

Sejong, February 26, 2024 – The Ministry of SMEs and Startups (MSS, Minister OH Youngju) announced on February 20 that the South Korean Cabinet has approved partial amendments to the "Support for Small and Medium Enterprise Establishment Act." These amendments will establish a legal foundation to support overseas startups and set specific criteria for each reason for the recovery of subsidies granted.

The following are amendments made to the "Support for SME Establishment Act.

① The government has shifted the paradigm of its startup policy, which used to concentrate solely on supporting companies in Korea, to now also assist foreign startups. It allows the government to actively aid startups in their establishment, settlement, and growth stages overseas.

The Korean government, under the YOON Suk Yeol administration's "Startup Korea" policy, has created a legal framework to assist Korean citizens and businesses that have established overseas businesses or converted their existing businesses into overseas corporations (referred to as "flipping"). Flipping involves establishing an overseas corporation and then transferring a domestic business to the newly established overseas corporation as a subsidiary.

The term "Starting a business overseas" has been newly defined through this amendment as the process of a Korean person or company establishing a corporation in a foreign country. In

this process, the person or company has significant control over the corporation by owning a certain number of shares or a specific amount of equity. On the other hand, the term "Foreign startup" is also a new definition in this amendment, which refers to a corporation that has been established overseas and is less than seven years old.

Clarifying the term "foreign startups" will allow other laws like the "Venture Investment Promotion Act" and the "Act on Restriction on Special Cases Concerning Taxation" to reference it and offer more diverse support to overseas startups.

When making changes to the "Enforcement Decree of the Support for SME Establishment Act," new criteria will be stipulated to identify and support foreign startups that have made significant contributions to the Korean economy, such as creating more jobs and increasing sales in Korea among foreign startups controlled by Korean nationals or Korean corporations.

In the future, it is expected that more successful Korean startups overseas will emerge.

② The government also established a legal basis for revoking the designation of institutions dedicated to "Evaluating Good Faith Management." In addition, a regulation restricting such institutions' re-designations for two years was newly included. The government has established a basis for requesting data managed by other ministries, such as the export and overseas investment performance of startups and the activities of foreign entrepreneurs in Korea. The Good Faith Management Evaluation is an evaluation system used to determine whether a failed business entity has been managed in good faith and has not engaged in fraudulent accounting, intentional bankruptcy, or unfair dismissal of employees.

On the same day, the Cabinet also approved a partial amendment to the "Enforcement Decree of the Support for SME Establishment Act" to set specific criteria for each reason for the recovery of subsidies granted.

The Cabinet has recently passed amendments to the "Support for SME Establishment Act." These amendments are expected to be promulgated on February 27 and will take effect six months later. Additionally, the amendments to the "Enforcement Decree of the Support for SME Establishment Act" will come into effect on March 15.