

Legal Lens:

Suspension of Writ Applications During the State of Emergency

KEY TAKEAWAYS

The Constitution of Myanmar grants the Supreme Court exclusive authority to issue specific types of writs, which are essential tools for safeguarding rights under various legal circumstances.

However, the Supreme Court of Myanmar has temporarily halted the acceptance of applications for judicial writs due to the extension of the state of emergency.

(1) Background and Relevant Laws and Regulations:

The Constitution of Myanmar empowers the Supreme Court to issue five key types of writs to enforce citizens' rights:

- a. Writ of Habeas Corpus: Orders a person or entity to release an unlawfully detained individual.
- b. Writ of Mandamus: Directs a lower court or government official to perform a mandatory duty legally owed to the applicant.
- c. Writ of Prohibition: Prevents lower courts and government officials from exceeding their jurisdiction or halts unlawful proceedings.
- d. Writ of Quo Warranto: Challenges the legality of a person's claim to a public office.
- e. Writ of Certiorari: Enables the Supreme Court to review and possibly nullify a lower court's decision that is not subject to appeal.

Additionally, while the Supreme Court holds the primary authority to issue these writs, other courts may also issue orders resembling writs under existing laws. The provision of the Constitution reserves the power to suspend these rights in extreme situations such as war, foreign invasion, or insurrection, when public safety might require it.

(2) Changes and Consequences:

Due to the declared state of emergency, the Supreme Court has issued Announcement dated 1st February 2024 to temporarily suspend acceptance of application and processing of these writs.

This action directly affects the ability of individuals and entities, including foreign-invested companies, to seek these judicial remedies during the emergency period.

(3) Implications:

This suspension impacts those unlawfully detained seeking release, entities requiring officials to fulfill their legal duties, and any party needing judicial review of unappealable decisions. It curtails the normal recourse to the judiciary for redressing grievances related to rights and

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administrative actions.

(4) Note:

Clients potentially affected by this suspension should seek immediate legal consultation. Decha & Co remains available to provide guidance and support during this period, ensuring that our clients' interests are represented and protected to the fullest extent possible under the current legal framework.

For further information or to discuss how these developments affect your specific situation, please contact your designated contacts at Decha & Co.

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• OTHER LOCATIONS

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