

De Jure

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Drones Policy 1.0 - Explained



What are Drones?

Remotely Piloted Aircraft a subset in the family of unmanned aircraft systems ("**UAS**"), commonly referred as drones and as the name alludes it operates without a pilot on board. Drones have multifarious uses in the industries ranging from surveillance, agriculture, data mining, delivery and military applications hence proving to be a boon to the technological advancement of an economy.



In India, regulatory landscape governing drones have been particularly slow to keep pace with the ever-evolving technology. Historically, while economies around the world were benefiting from the use of drones, drones were banned in India for civilian use with effect from October

07, 2014, till the regulations governing drones become effective.



On August 27, 2018, the Directorate General of Civil Aviation ("**DGCA**") introduced the Civil Aviation Requirements 1.0 for operation of civil remotely piloted aircrafts in India which came into force from December 01, 2018 ("**CAR**").

Digital Sky Platform

DGCA alongwith introduction of CAR also announced a much ambitious all-digital IT platform namely "**Digital Sky Platform**" effective from December 01, 2018, to ensure smooth and paperless functioning of registering and operating of drones. The Digital Sky Platform shall act as a national Unmanned Traffic Management ("**UTM**") platform regulating the drone airspace and facilitating the

implementation of the 'No Permission, No Take-off' ("**NPNT**") condition for the operation of drones. Accordingly, to fly a drone, it needs to be NPNT compliant ensuring management of the airspace occupancy through the UTM platform.

Further, the Government also announced compartmentalisation of airspace into Red Zone (flying not permitted), Yellow Zone (controlled airspace), and Green Zone (automatic permission) for the operation of drones in the Indian airspace.

Procurement of Drones

Drones can be either locally purchased or imported. An entity purchasing a drone which is locally sourced shall only require to undertake Equipment Tag Approval ("**ETA**") from the Wireless Planning and Coordination Wing of the Department of Telecommunications.

For imported drones, other than nano category drones (*explained below*), in addition to the ETA, the importer

shall also require an Import Clearance license from the DGCA.

Furthermore, it is pertinent to note that according to Press Note 1 of 2019 issued by the Department for Promotion of Industry and Internal Trade ("**DPIIT**") entities manufacturing drones used for military applications in India will be required to procure an Industrial License from the DPIIT under the Industries (Development and Regulation) Act, 1951.

Classification of Drones



Pursuant to CAR, drones are broadly categorised into five categories based on their maximum all-up weight as follows:

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- Nano - Upto 250 grams;
 - Micro - Greater than 250 grams and less than or equal to 2 kg;
 - Small - Greater than 2 kg and less than or equal to 25 kg;
 - Medium - Greater than 25 kg and less than or equal to 150 kg;
 - Large - Greater than 150 kg.

Generally, permissions required for flying drones increases as we move upward from a drone in nano category to a drone in large category. Drones in nano category can be flown upto 15 metres above ground level in uncontrolled airspace or enclosed premises for commercial / recreational / R&D purposes after obtaining an ETA and without any further approval requirements.

Unique Identification Number: Ownership of Drones

- Any entity or a person in ownership of a drone shall require to obtain a Unique Identification Number ("**UIN**") issued by the DGCA. DGCA discourages

foreign nationals from owning a drone by putting up an eligibility requirement to obtain a UIN;



- The following entities or persons who wholly own the drones are eligible to obtain a UIN:
 - a) Indian citizens; or
 - b) Central Government or State Governments or any company owned or controlled by the Government; or
 - c) A company or a body corporate provided that:
 - i. it is registered and has principal place of business in India;
 - ii. its chairman and atleast 2/3rds of its directors are citizens of India; and

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- iii. its substantial ownership and effective control is vested with Indian nationals; or
- d) A company or a corporation which is registered elsewhere than in India, however has leased its drones to an entity or organisation at point (b) or (c) above. Such lessee shall be eligible to obtain UIN;

- A nano drone intended to fly upto 15 metres above ground level or drones owned or operated by the National Technical Research Organization, Aviation Research Centre or Central Intelligence Agencies are exempted from obtaining a UIN;
- Furthermore, in addition to obtaining ETA, the UIN application shall be required to be supplemented with a Security Clearance obtained from Ministry of Home Affairs ("**MHA**") or in case of resident individuals through self-attested declarations of the identity proofs, as the case may be.

Unmanned Aircraft Operator Permit: Permit for Operation of Drones

- Every operator of a drone, other than the exempted categories, shall be required to apply for an Unmanned Aircraft Operator Permit ("**UAOP**") by way of an application on the Digital Sky Platform;
- The said application (along with relevant documents as prescribed under CAR) is required to be filed at least seven days prior to the actual commencement of operations;



- DGCA shall issue UAOP within seven working days provided the application is complete in all respects;
 - UAOP shall be valid for a period of five years from the date of issue and shall be a non-transferable permit;
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- For renewal of UAOP, the applicant shall be required to obtain a fresh security clearance from the MHA;

- Drones which can be operated without obtaining UAOP:

- a) Nano drones operating below 15 metres above ground level in uncontrolled airspace/ enclosed premises;



- b) Micro drones operating below 60 metres above ground level in uncontrolled airspace/ enclosed premises. However, the user shall intimate to the local police office twenty-four hours prior to the conduct of actual operations;
- c) Drones owned and operated by National

Technical Research Organization, Aviation Research Centre or Central Intelligence Agencies although the requirement to intimate the local police office and concerned Air Traffic Service prior to the conduct of actual operations shall still be a pre-requisite;

- The operator who has been provided with the permit to fly drones shall also be required to comply with the security or safety requirements stipulated under Regulation 8 of the CAR in order to mitigate any risks in connection with the operations of drones.

Other Operating Requirements

- The UAOP holders shall maintain the records of each flight undertaken in the format prescribed under Annexure X of the CAR. Such records shall be made available to the DGCA on demand;
- The flight operations of any drone shall be restricted to daylight hours only viz. between sunrise and sunset and within the Visual line-of-sight (VLOS) with a minimum ground visibility of 5 kilometres and

cloud ceiling not less than 450 metres;

- The operator of a drone, except for Nano and Micro drones operator upto 15 metres and 60 metres respectively in uncontrolled airspace, shall also be required to file a flight plan atleast 24 hours prior to the actual flight;
- All drone owners are required to intimate the concerned local police officers in writing prior to commencement of any flight operations;
- Drones shall not be allowed to conduct any flight operations in specifically demarcated areas prescribed under Regulation 13 of the CAR;
- Additionally, the operators of the drones are required to ensure liability that they might incur due to damage to any third party by undertaking adequate insurance.

Public Notice for Voluntary Disclosures of Drones

Ministry of Civil Aviation on January 13, 2020, issued a public notice facilitating identification and validation of drones used for civil purposes ("**Public Notice**"). The

Public Notice mandated the owners of the drones, although not NPNT compliant, with one-time opportunity till January 31, 2020, to register their drones and obtain a Drone Acknowledgment Number ("**DAN**") and an Ownership Acknowledgment Number ("**OAN**") in addition to the requirements specified under CAR. Although, issuance of DAN and OAN does not confer a right to operate drones without complying with the provisions of CAR.

Enforcement Actions



If there is any breach of compliance with any requirements prescribed under the CAR and resultant falsification of any records or documents shall attract penal action under the applicable sections of the Indian Penal Code, 1860, the Aircraft Act, 1934, the Aircraft Rules, 1937 or any applicable statutory provisions.

Conclusion

Drones attribute to be an efficient technological innovation effectively saving time and increasing productivity across industries since it has wide ranging applications. In order, for the Government to not miss the economical traction created by growing popularity of drones in commercial uses, we are hopeful for the Government to iron out the challenges faced by the various stakeholders involving practical and real-time implementation of the CAR.

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