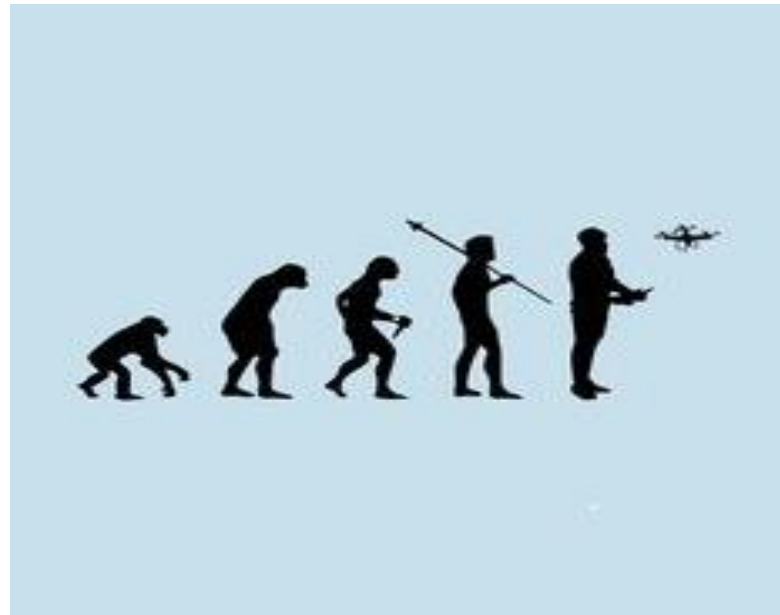


De Jure

September 3, 2022

Drones At Doorsteps- Next Technological Revolution



After rounds of consultations with various stakeholders, the Ministry of Civil Aviation (MCA) for the first time, in the year 2018, introduced the Civil Aviation Requirements (CAR) for the operation of Unmanned Aircraft Systems (UAS)¹. Popularly and commonly known as drones, their use can be traced back to World War II and Kargil War². However, prior to 2018, no non-government organization or individual was permitted to launch a drone in Indian Airspace for any purpose.

Keeping in mind the growing demand, benefits, and use of drones, the Government of India, in the year 2021, subsequently notified the rules called Unmanned Aerial System Rules 2021 (UAS Rules). UAS Rules which we believe subsumed CAR were considered too compliance intensive and restrictive in nature, as they required many approvals and permissions for flying drones. The list was long and included the requirement to obtain a unique authorization number, unique prototype identification number, certificate of manufacturing and airworthiness, certificate of conformance, certificate of maintenance, and import clearance. It also had restrictions on foreign ownership in drone companies in India and had sanctioned very less "free to fly" zones.

With the objective to simplify and liberalize the norms, UAS Rules were replaced with Drones Rules, 2021, which were further liberalized by way of an amendment in the year 2022 (Drone Rules).

In this article, we discuss a few provisions of the Drone Rules.

As per the Drone Rules, drones are classified into five categories. They are Nano drones (less than or equal to 250 grams); Micro drones (greater than 250 grams and less than or equal to 2 kg); Small drones (greater than 2 kg and less than or

¹ An aircraft and its associated elements, which are operated without pilot on board

² www.indiatimes.com/explainers/news/drone-flying-in-india-561007.html#Indias_history_of_drones

equal to 25 kg); Medium drones (greater than 25 kg and less than or equal to 150 kg); Large drones (greater than 150 kg). The categorization is according to maximum all-up weight including payload³.

With the notification of new rules, nano and model drones, generally used for research or recreational purposes, are now exempt from the requirement of obtaining any certification for their use.

Further, the requirement of obtaining several approvals has been abolished and the number of forms and types of fees has been drastically reduced. Even the quantum of fee for certification and registration is reduced to nominal levels. Also, unlike under earlier rules, the fee is delinked with the size of the drone.

Another significant feature is the development of Digital Sky which envisages a seamless and user-friendly platform for the overall management of drones. This platform facilitates end-to-end activities relating to drones which includes registration of drones, pilots and operators for online permission with minimal human interface and launching of drones. For the launching of drones, DGCA has also introduced online "interactive airspace map", which is freely available on digital sky platform to anyone without any login requirements. The airspace map is divided in green zone⁴, yellow zone⁵ and red zones⁶ and helps

³ "All-Up Weight" means weight of drone together with the payload weight. Payload weight means the carrying capacity of an aircraft or launch vehicle.

⁴ "Green Zone" means the airspace (i) of defined dimensions above the land areas or territorial waters of India, upto a vertical distance of 400 feet or 120 meter and (ii) upto a vertical distance of 200 feet or 60 meter above the area located between a lateral distance of 8 kilometer and 12 kilometer from the perimeter of an operational airport.

⁵ "Yellow Zone" means the airspace of defined dimensions above the land areas or territorial waters of India within which unmanned aircraft system operations are restricted and shall require permission from the concerned air traffic control authority. The airspace above 400 feet or 120 meter in the designated green zone and the airspace above 200 feet or 60 meter in the area located between the lateral distance of 8 kilometer and 12 kilometer from the perimeter of an operational airport, shall be designated as yellow zone.

⁶ "Red Zone" means the airspace of defined dimensions, above the land areas or territorial waters of India, or any installation or notified port limits specified by the Central Government beyond the territorial waters of India, within which unmanned aircraft system operations shall be permitted only by the Central Government;

citizens to understand where they can fly their drones and the nature of paperwork required for the same. This online platform which is partly operative is reported to be fully functional by October 2022⁷.

In the UAS Rules, the Government of India gave importance to privacy norms by prohibiting capturing of image or data of a person or their property, which violate their privacy. However, similar provisions are not included under the Drone Rules. We believe that the Government of India may come out with some amendment or clarification to address this concern.

As far as the penalty for non-compliance is concerned, the Drone Rules have significantly reduced the penalty to Rs. 1 lakh, which was earlier running in several lakhs. As per the Drone Rules, after the person has been given an opportunity to be heard the Director General or designated officer may levy a penalty which will not exceed Rs.1 lakh. The breach of the Drone Rules may also trigger or attract a penalty and/or punishment of any other statute.

CAR paved the way for the safe and commercial usage of drones in India. The introduction of rules and their amendments is expected to change the overall landscape of Indian businesses, bringing in new innovations and generating employment opportunities⁸. With the liberalisation of registration norms and reduction in the fees, more people will have access to own and use drones. Also, the drone rules which now permit foreign investment in the manufacturing and operation of drones will attract more investment in this sector along with the technological and domain expertise of foreign countries.

CONTRIBUTED BY:

Amish Shroff, Partner: amish@rajaniassociates.net

Ruchi Sethna, Associate: rsethna@rajaniassociates.net

⁷ <https://www.moneycontrol.com/news/business/drone-operations-digital-sky-platform-to-be-fully-functional-by-october-says-dgca-8444881.html>

⁸ The Ministry of Civil Aviation estimates that the sector manufacturing drones and drone components will see an investment of over Rs.5000 crore with an annual sales turnover of over Rs.900 crores by around 2024. This sector is also expected to generate direct employment of 10,000 direct jobs. Further, it is expected that the drone services industry will grow to over Rs.30,000 crore and generate over 5,00,000 jobs by 2024.

DISCLAIMER:

This Article is meant for information purposes only and does not constitute any legal advice by Rajani Associates or by the authors to the article. The contents of the Article cannot be intended to be comprehensive legal advice and would require re-evaluation based on the facts and circumstances. We cannot assume any legal liability for any errors or omissions. Should you have any queries on any aspect contained in this article, you may contact the author by way of an e-mail or write to us at editorial@rajaniassociates.net

AREAS OF PRACTICE

| Capital Markets | Private Equity | Mergers and Acquisitions | Corporate Litigation & Arbitration | Projects & Project Finance |
| Real Estate & Trust | Corporate & Commercial | Banking & Finance | Structuring | TMT | IPR | Employment

DISCLAIMER

This update only contains a summary/ limited description of the topic dealt with hereinabove for general information purposes and should not be construed as a legal opinion or be relied upon in absence of specific legal advice. For further information or legal advice please feel free to contact us.

Contact US



Rajani Associates

simple solutions

Address: Krishna Chambers
59 New Marine Lines
Churchgate
Mumbai 400020
Maharashtra, India
Telephone: (+91-22) 40961000
Facsimile: (+91-22) 40961010
Email: dejure@rajaniassociates.net
Website: www.rajaniassociates.net
