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Operation of Civil Remotely Piloted Aircraft Systems (Drones)

With effect from December 1, 2018, the Directorate General of Civil Aviation ('DGCA') published the Civil Aviation Requirements ('CAR') on the operation of Civil Remotely Piloted Aircraft Systems ('Drones'). Previously, as noted by the DGCA in a public notice dated October 7, 2014, non-Governmental entities or individuals could not operate Drones within civilian airspace without the prior approval of the Ministry of Home Affairs ('MHA'), and other concerned security agencies (including the DGCA) due to the potential safety and security threat of unregulated operation.

Broadly, the objective of the CAR seems to be the regulation of Drone operations in civilian airspace in a manner which is similar to the manner in which operation of civil aircrafts is regulated by the DGCA, with a few additional features concerning security and real time tracking of the Drones. Some of the salient features of the CAR are summarised below.

1 Categorisation of Drones

The CAR classifies civil Drones into five categories based on their maximum all-up weight:

- a. Drones less than or equal to 250 grams ('Nano Drones');
- b. Drones greater than 250 grams and less than or equal to 2 kgs ('Micro Drones');
- c. Drones greater than 2 kgs and less than or equal to 25 kg ('Mini Drones');
- d. Drones greater than 25 kgs and less than or equal to 150 kgs ('Small Drones');
- e. Drones : greater than 150 kgs ('Large Drones').

2 Approvals for Purchase / Import and Operation of Drones

- a. *Import Related Approvals:* Any entity intending to import Drones into India, other than Nano Drones, are required to obtain import clearance from the DGCA, based on which the Director General of Foreign Trade ('DGFT') will issue an import permit.
- b. *Telecommunication License:* Prior to import, the applicant is required to obtain an Equipment Type Approval ('ETA') from the WPC Wing, Department of Telecommunications for operating a Drone in de-licensed frequency band which will be valid for a particular model and make. In case of Drones locally purchased in India, the applicant should ensure that the Drone has a valid ETA in place.
- c. *Unique Identification Number:* All civil Drones are required to have a Unique Identification Number ('UIN') issued by the DGCA. UINs will be granted where the Drones are wholly owned by: (i) an Indian citizen; (ii) the Central or State Government; (iii) an Indian company/body corporate; and (iv) a company registered outside India which has leased the Drone to the Indian Government or an Indian company. In case of imported Drones, the applicant is permitted to apply for UIN only after the receipt of the import license from the DGFT. The following categories of Drones are exempted from the UIN requirement:
 - (i) Nano Drones intended to fly up to 15 meters above ground level in uncontrolled airspace/ enclosed premises for commercial / recreational / research and development purposes; and
 - (ii) Drones owned / operated by the National Technical Research Organization, Aviation Research Centre or Central Intelligence Agencies (collectively 'Agencies').

The obligation to obtain a UIN for Drones is similar to the requirement imposed on a civil aircraft owner to obtain an aircraft registration number from the DGCA for operating civil aircraft in India. The purpose of DGCA allocating UINs for Drone, similar to granting registration numbers for aircrafts, is to control the safety of aviation in India.

- d. *Security Clearance:* Security clearance from the MHA is required to be obtained by all non-Governmental owners and must also be obtained as a pre-requisite for obtaining the UIN. Any Drone which has been issued a UIN cannot be sold or disposed off in any way to any person or firm without permission from DGCA.
- e. *Unmanned Aircraft Operator Permit:* All persons, organizations or enterprises engaged in or offering to engage in civil operation of Drones ('Operator') are required to obtain Unmanned Aircraft Operator Permit ('UAOP') from the DGCA. UAOP permit is not required to be obtained for the operation of the following categories of Drones:
 - (i) Nano Drones operating 15 meters above ground level in uncontrolled airspace / enclosed premises;
 - (ii) Micro Drones operating below 60 meters above ground level in uncontrolled



- airspace / enclosed premises. However, the Operator is required to intimate local police office 24 hours prior to conduct of actual operations; and
- (iii) Drones owned and operated by Agencies. However, the Agency is required to intimate local office and concerned air traffic service unit prior to conduct of actual operations.

Further, the Operator is also required to obtain permission of the land/ property owner for area used for take-off and landing, security clearance from MHA and security program approval by the Bureau of Civil Aviation Security ('BCAS'), as a pre-requisite to obtaining the UAOP. UAOPs are valid for 5 years and are non-transferable.

In order to ensure smooth, orderly and safe development of air transport in India, similar to providers of scheduled / non-scheduled air transport services being required to obtain an air operating permit from the DGCA, similar obligations have been imposed for obtaining the UAOP in case of commercial operation of Drones.

3 Real Time Tracking

Monitoring of Drone movements in the Indian airspace is undertaken by the Indian Air Force in coordination with the Airports Authority of India. Drones categorized as 'Micro Drones' and above are required to be equipped with RFID and GSM SIM card/NPNT tracking system, return to home option, fire resistant identification plate inscribed with UIN, flight controller with data logging capacity and anti-collision lights. There is an additional list of mandatory equipment that have to be installed for all Drones intending to operate up to 400 feet above ground level in controlled airspace, other than Nano Drones and Micro Drones operating in un-controlled airspace. The tracking system of a Drone has to be self-powered and tamper / spoofing proof to ensure data relay even in the event of an accident.

4 Operating Requirements

- a. The Operator is responsible for safe custody, security, and access control of Drone systems. Any loss, accident, irreparable damage to any Drone is required to be reported to the local police, BCAS and DGCA. The Operator is also responsible for ensuring that the Drone is operated safely and remains clear of all manned/unmanned air traffic, terrain and obstacles. All Drones are required at all times to give way to manned aircraft.
- b. The remote pilot/user is responsible to ensure, in his reasonable opinion that all the control systems of the Drone, including radio apparatus and command and control link, are in working condition before each flight.
- c. The Operator/remote pilot is liable to ensure that privacy norms of any entity are not compromised in any manner.
- d. All civil Drones have to be operated: (i) in 'Visual Line of Sight'; (ii) during day time; and (iii) only during certain meteorological conditions, as specified in the CAR.
- e. All Drone Operators (except Operators of Nano Drones intended to be operated up to 50 feet and Micro Drones intended to be operated up to 200 feet in uncontrolled airspace/enclosed premises) are required to file flight plan at least 24 hours before actual operations and obtain ATC clearance, Air Defence Clearance from nearest air force unit, and an FIC number from nearest Flight Information Centre.
- f. All Drone operators (except Nano Drone operators) are required to inform local police in writing prior to commencing operations.
- g. Drone operators are not permitted to drop substances unless specifically cleared and mentioned in UAOP, transport hazardous or explosive or animal or human payload, or operate in a manner to cause damage or harm.
- h. Indian organizations involved in research and development of Drone systems are allowed to use test sites specified in the CAR.

5 Training of Remote Pilots

All Drones, other than Nano Drones and Micro Drones, are mandatorily required to be piloted only by trained Drone pilots. The qualification criteria for remote Drone pilots are that: (a) such a person should be at least 18 years of age; (b) he should have passed 10th exam in English; and (c) undergone ground/practical training. Such ground training can be obtained from any DGCA approved flying training organization.

6 Third Party Liability

The UIN/UAOP issued by DGCA does not confer on the Drone Operator any right against the owner or resident of any land or building or over which the operations are conducted, or prejudice the rights and remedies which a person may have in respect of any injury to persons or



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damage to property caused directly or indirectly by the Drone or absolve the Operator/remote pilot from compliance with any other regulatory requirements, which may exist under State or local law. Therefore, the CAR mandates all civil Drone operators to obtain third party liability insurance.

7 Restrictions on operations

Drone Operators are prohibited from operating any Drone close to airports, restricted areas as notified by Aeronautical Information Publication, international borders of India, any military installation unless prior clearance is obtained, strategic locations notified by the MHA unless prior clearance is obtained, State Secretariats, or ecological zones notified by the Ministry of Environment, Forests and Climate Change and certain other locations as specified in the CAR.

8 Penal provisions

Any violation of the CAR/approved operating conditions, the UIN/UAOP may be suspended or cancelled. Breach of compliances and falsification of records will attract penal action under Indian Penal Code and any other actions under Aircraft Act, 1944 and the Aircraft Rules, 1937 or other statutory provisions, as applicable.

9 Conclusion

The regulation on drones is a fairly significant move by the DGCA, and the intention of the Government seems to be in favor of use of Drones for commercial purposes. We believe this is a positive step for the Drone industry, and given that drones are a novel technology and poses risks from various perspectives, the approach currently taken by the DGCA appears to be balanced. With the passage of time and as the industry matures, there is a likelihood that the Government may relax the regulations governing Drones.



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