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THE DRONE RULES 2021 – GIVING WINGS TO THE DRONE INDUSTRY IN INDIA

6 September 2021 **Background**

On 25 August 2021, the Ministry of Civil Aviation (Ministry) notified the Drone Rules 2021 (Drone Rules). The Drone Rules supersede the erstwhile Unmanned Aircraft System Rules 2021 (UAS Rules) and have significantly reduced the approvals, compliance requirements and entry barriers for drone operators in India.

Application

The Drone Rules have a broad scope of application as it applies to (i) all persons owning or possessing, or engaged in leasing, operating, transferring or maintaining unmanned aircraft systems (UAS) in India, (ii) all UAS registered in India, and (iii) all UAS operated for the time being, in or over India. However, the Drone Rules do not regulate UAS belonging to, or used by, the naval, military or air forces of the Union of India. The UAS Rules also stipulate that the Aircraft Rules 1937 shall not apply to UAS, except for UAS with maximum all-up-weight of more than 500 kilograms.

Key highlights of the Drone Rules

➤ **Classification/ Categorization**

The UAS have been classified into three categories: aeroplanes, rotorcrafts and hybrid UAS, which have been sub-categorised into remotely piloted aircraft system, model remotely piloted aircraft system, and autonomous UAS. There is a further sub-classification based on 'maximum all-up-weight' including payload.

➤ **Certification**

A type certificate (as may be mandated for different types of UAS) is mandatory to operate UAS in India, which can be obtained by making an application on the digital sky platform (Digital Sky Platform) along with requisite fee and details. The Drone Rules also propose acceptance of approvals granted by certain foreign regulators.

➤ **Mandatory safety features**

The Drone Rules create an avenue to require owners of UAS to mandatorily install certain safety features in future, such as 'No Permission - No Take off' hardware and firmware, real time tracking beacons, geo-fencing capabilities, etc.

➤ **Registration of drones**

UAS must be registered on the Digital Sky Platform and must possess a unique identification number (UIN). All applications are required to be made on the Digital Sky Platform along with requisite fee and details. Further, transfer of UAS to another person is permitted by providing requisite details of the transferor, transferee, UIN number on the Digital Sky Platform, along with the requisite fee. There are steps that are required to be undertaken in case of permanent loss or damage of UAS by the person in whose name the UAS is registered.

➤ **Operation of drones**

• Designated zones

The Drone Rules refer to classification of the airspace into three colour-coded zones, viz. green zone, yellow zone, and red zone. Prior permission is required for UAS operations in the red and yellow zone.

• Interactive airspace maps

For UAS operations, an airspace map will be published by the Central Government segregating the entire airspace of India into red zone, yellow zone and green zone, with a horizontal resolution equal to or finer than 10 meters. Interactive nature of these maps will enable the UAS pilots to plot their proposed flight plan to identify the zone within which it falls in order to assess whether they need to obtain prior approval.

• Pre-flight verification

Due to the regular updates made to the airspace maps, a remote pilot is required to mandatorily verify the Digital Sky Platform for any notification or restriction applicable to UAS operations in the intended area of flight.

• Access to data

The Digital Sky Platform may be directly accessed by the nodal officers of State Governments, Union Territory Administrations and law enforcement agencies. In other words, all the data uploaded on the Digital Sky Platform, may be accessed by the relevant authorities.

• Safety provisions

UAS operations must be carried out in a way that does not endanger the safety and security of any person or property. Additionally, there are restrictions on carrying certain types of goods (e.g. arms, ammunition, explosives etc.) and requirement to report accidents within 48 hours. Further, UAS operators are not permitted to violate the right of way of a manned aircraft and are required to remain clear of all manned aircrafts.

➤ **Remote pilot license**

Any person operating UAS must hold a valid remote pilot license (except for operating certain categories of drones). The applicant for a remote pilot license must meet the eligibility criteria, complete the required training specified for the relevant UAS and clear the tests conducted by an authorised remote pilot training organisation.

➤ **Exemptions for research, development and testing**

The Drone Rules provide for certain exemptions from the applicability of the above provisions for the purposes of research, development and testing. However, such UAS operations can only take place within a green zone and within the premises of the person where such research, development and testing are

being carried out or within an open area in a green zone under such person's control.

➤ **Insurance**

The provisions of the Motor Vehicles Act 1988 and its rules will apply to the third party insurance of UAS (except for nano UAS) and compensation in case of damage to life or property caused by such UAS.

➤ **Consequences and penalties**

The Drone Rules prescribe certain consequences and penalties for contravention of its provisions. Contravention of provisions such as obtaining prior permission for flying over yellow zone and red zone, carriage of arms, ammunitions, explosives, etc., are cognizable and non-compoundable offences. In certain cases, any license, certificate, authorisation or approval granted under the Drone Rules may also be cancelled or suspended.

Comment

The notification of the Drone Rules '*built on the premise of trust, self-certification, and non-intrusive monitoring*' is a landmark moment for the drone sector in India. The establishment of the Digital Sky Platform is a progressive step towards ensuring paperless approvals in this digital era, and it proposes to significantly water down the heavy compliance burdens, thereby encouraging start-ups to explore business opportunities in this sector. The exemptions for research as well as the proposal to set up an Unmanned Aircraft Systems Promotion Council, provides a considerable boost to the drone businesses operating in India.

However, certain regulatory concerns remain which the Drone Rules do not provide clarity on. While the erstwhile UAS Rules entrusted the responsibility on an authorised drone operator to '*ensure the privacy of a person and its property during operation*', the current Drone Rules do not have a similar provision. Further, the Drone Rules neither expressly prohibit drone operations over private properties nor stipulate special permissions including consent of the landowners for such operations. Perhaps the intended exclusion of privacy related provisions is hinting towards the forthcoming data protection law which may be likely to address any related privacy and security concerns. While the notification of these Drone Rules is certainly a big leap, it would be interesting to see how the new framework gives shape to the future of the drone industry in India.

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