

## UK DRONE REGULATION TO TAKE FLIGHT SOON

### *Introduction*

Drone-related news stories are becoming increasingly frequent. They range from stories about the use of drones by emergency services, for example helping firefighters tackle the Californian wildfires, to tragic stories, such as that of the attempted assassination of the Venezuelan president through the use of explosive drones. In the wake of the Salisbury nerve agent attack, the Ministry of Defence (**'MOD'**) has tested a fleet of drones that can detect the presence of chemical weapons.

In short, drones come in many shapes and sizes. This short article will discuss the regulation of drones used for commercial and recreational purposes only (i.e. not combat drones).

### *Overview*

Internationally, drone regulation is far from uniform. There are countries that have imposed an outright ban on drone use, whilst others that have imposed stringent regulations. There are also a series of countries that have issued guidelines relating to the use of drones but have not yet implemented specific laws.

### *The current position in the UK*

Parliament has announced that it will introduce regulations for the purchase and use of drones weighting 5kg or more (Drone (Regulation) Bill 2017-2019). At the time of writing, a draft of the regulations has not been published.

Currently, drone users in the UK are responsible for the lawful use of drones, and can be prosecuted if they break the law. The relevant law is enshrined in the Air Navigation Orders 2009 and 2016, as enacted under the Civil Aviation Act 1982.

In addition, the Civil Aviation Authority (**'CAA'**) has issued a Drone Code, providing a mnemonic for lawful drone use: **D**on't fly near airports or airfields; **R**emember to stay below 400ft (120m); **O**bserve your drone at all times – stay 150ft (50m) away from people and property; and **N**ever fly near aircrafts; and **E**njoy responsibly (**'DRONE'**). With the added prohibition of do not drop 'articles or animals that could endanger people or property', this is the extent of general drone regulation in the UK.

Responding to concerns about the privacy of the public, the CAA has introduced prohibited areas for the flight of drones fitted with cameras. Should a drone operator wish to fly within the prohibited areas, permission needs to be sought and granted by the CAA.

In anticipation of the UK drone regulations, this article will explore the EU Regulation soon to come into effect, the existing regulations in Germany, and the requirements for drone use in the United Arab Emirates (**'UAE'**).

### ***EU drone regulations***

On 12 June 2018, the European Parliament signed updated aviation rules, with a view to EU-wide regulation of drones of all sizes. The European Council adopted the rules on 26 June 2018. They are expected to be published imminently, and it is understood that they will come into force 20 days thereafter.

The EU regulations impose minimum requirements for the design, production, maintenance and operation of drones, and envisage a mandatory certification of every drone and their operators. Each Member State will be responsible for retaining a record of certification.

The EU regulations will allow the European Commission to adopt delegated acts in regulating drone use. Each Member State will be free to pass their own rules, in some cases subjecting drone use within their territories to more stringent requirements to those imposed by the EU regulations.

It is likely that the European Commission will categorise drones according to the risks associated with their operation (as per the opinion of the European Aviation Safety Agency) and will impose rules so as to minimise such risks.

One such rule may include allowing countries the discretion to create 'flight zones' to regulate air traffic.

### ***Drone regulation in Germany***

Within the EU, the country with one of the most comprehensive drone regulations is Germany, having introduced specific regulations for drones in 2017. Amongst other things, it adopted labelling and operator requirements, mandatory authorisation to fly rules, and set out prohibitions and restrictions

on drone use. Interestingly, Germany does not differentiate between drones used for recreational or commercial purposes.

Of the regulations imposed, the following are noteworthy:

- All drones weighing more than 0.25kg must have a permanent fireproof label affixed, showing the name and address of the owner;
- All operators of drones weighing more than 2kg need to be certified in the knowledge of drone operation and their legal framework;
- For drones weighing more than 5kg and for all drones flown at night, an authorisation to fly is required (valid for 2 years).

### ***Drone regulation in the UAE***

The UAE is one of the countries that has embraced the rise in use of the drone; an unmanned taxi drone has even made its maiden flight in Dubai with plans to roll it out within five years.

Due to the high use of drones, particularly in Dubai, the UAE's General Civil Aviation Authority (**'GCAA'**) has issued a list of requirements for safe drone use. The most notable of which are that:

- All users and drones should be registered with the GCAA;
- No video or image capturing devices are to be used when flying the drone;
- Drone use is only permitted during the day and in good weather;
- A drone owner intending to re-sell his/her drone must inform the GCAA;
- If a drone is to be used for commercial purposes, the operator must pass a GCAA administered exam;
- The GCAA has implemented 'flying zones', accessible to drone operators via a mobile application.

### ***Conclusion***

Whilst recognising that there are commercial and recreational benefits to the use of drones, countries will be anxious to regulate their flight in order to protect the safety and privacy of member of the public. Whilst at the time of writing the UK has not enacted laws relating to the commercial and

recreational use of drones, it can be expected that the regulation in prospect will be comprehensive and is likely to address such concerns.

Whilst the effect of Brexit might mean that the European regulations may not be directly applicable to the UK when the Commission issues rules for drone use, they may still have a persuasive effect on UK lawmakers. It remains to be seen if the UK will apply different rules for commercial and recreational drone use, following the UAE model, or if it will apply uniform rules, like Germany.

Regardless as to which model the UK follows, it seems certain that there will be registration of some form. A central database, analogous to the DVLA, would seem sensible, whilst number plates identifying a particular drone would also ensure accountability. Drone regulations in the UK will undoubtedly be welcomed by other aircraft operators, and by the public at large. As with any form of regulation, the success of the legislation will be in making the laws easily accessible and understandable, thereby ensuring that the underlying purpose of the scheme is conveyed to those that need to be aware of the same. Education and enforcement will be central to ensuring effective compliance.

**OLIVER POWELL**

Barrister

**ALEX SIDOSSIS**

Pupil-Barrister

Outer Temple Chambers

17.ix.18