

Technology Law Analysis

May 11, 2020

DRONES TO AID GOVERNMENT AGENCIES DURING COVID-19: RELIEF OPERATIONS TO TAKE PLACE FROM THE SKY

Historically, pandemics have forced human civilization to break away from the past and adopt novel measures that redefine our present and throw us into the future. The global outbreak of coronavirus disease ("COVID-19") is no different. It has necessitated the need for social distancing along with the use of new technologies that can support government entities during the national lockdown and enable them to triumph over this pandemic.

Drone Technology has proven its ability to reduce the need for physical presence of individuals and to remotely undertake conventional operations in a manner where no human contact is required. Drones are an effective tool to limit human contact without compromising on some essential activities and many drone companies in India are developing novel solutions to aid the national effort against this crisis.¹

GOVERNMENT AUTHORISATION FOR RELIEF USING DRONES (GARUD)

Keeping up with the needs during the pandemic, the Ministry of Civil Aviation ("MoCA") and the Directorate General of Civil Aviation ("DGCA") together on May 02, 2020, launched the portal for government authorization for relief using drones, also known as the GARUD portal. It is a welcome move by the authorities, that fast tracks the process of granting exemptions to government agencies across India for conducting COVID-19 related relief operations using remotely piloted aircraft system ("RPAS" or "drone"). In this regard, the Government of India exercising the powers vested in it under Rule 160 of the Aircraft Rules, 1937, released a public notice² ("Exemption Notice"), for granting conditional exemptions to government agencies from certain compliances for operating RPAS as applicable under existing drone laws.

The Exemption Notice will remain in force until further orders.

ROLE OF AUTHORISED ENTITY

The Exemption Notice is only applicable to entities under the union government, state government, district administration or any other government institutions ("Authorised Entity") and the drone operations which can be undertaken are limited to surveillance, photography and information dissemination. Further, the Authorised Entities shall be wholly responsible for the safety, overall supervision and control of the drone and its operations.

In order to avail the grant of exemptions, the Authorised Entity is required to submit an online application as prescribed in Form A³ on the GARUD portal along with other necessary declaration (prescribed in Form B)⁴ and other supporting documents / information. While the approval is expected to be fast track, interestingly, no indicative timeline has been prescribed within which the conditional exemption will be granted.

Differing from existing drone laws, the Exemption Notice enables an Authorised Entity to not only operate its own drone, but also allows it to engage a third-party drone service provider ("DSP") for providing and/or operating the drones for permitted use. Hence, it would allow private parties to be engaged by an Authorised Entity to use their drone and/or drone operator services. However, it is to be noted that the security verification and capability assessment of both the DSP and the DSP's drone operator that it chooses to engage, shall be the sole responsibility of the Authorised Entity. The Authorised Entity will also be responsible for the custody, security and access control of the particular drone and it will be held liable for any damage caused by such drone operations. Further, details of every drone flight or any related incident or accident, should be uploaded on the Digital Sky Platform within seven (7) days of undertaking the flight.

CONDITIONS FOR GRANT OF EXEMPTION

The Exemption Notice prescribes various conditions and requirements in relation to the drone and its operations. Some of the key issues in this regard include the restriction placed on the type of drone that can be operated under the conditional exemption, which only includes battery-operated rotary-wing drones, weighing less than the total all-up weight of 25 kilograms (including payloads, if any). Further, it explicitly prohibits the use of any other type of drone, such as fixed-wing and autonomous.

The Exemption Notice also restricts the operation of drones within the visual line of sight ("VLOS") and up to a height of 200 feet above ground limit. It also prohibits a drone from picking, dropping, spraying or discharging any substance, thereby limiting use of drone technology from achieving its maximum potential and restricting numerous other relief based use-cases that could have been achieved using drones.

Further, the Authorised Entity shall be permitted to operate the drones only during day time. As a safety measure, the drone being used for relief work should also be mandatorily equipped with return to home feature, which may be a challenge considering many drones currently available for use in India may not have this equipment feature by design.

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CONCLUSION

During the outbreak of COVID-19 in India, authorities have been using drones in several cities across India, including Delhi and Mumbai, among others.⁵ Such use cases in current times have demonstrated a successful proof of concept and consequently providing the much needed confidence to the Government to take the next step towards opening the Indian sky for civil use of drones.

We feel the COVID-19 crisis is an opportune time for Government to test the readiness of the Indian drone industry. Although it is a welcome step, we believe that the scope of the Exemption Notice could have been a little wider to allow operations beyond surveillance, photography and announcements, so as to exploit maximum potential of the drone technology. Based on global examples, some of the other use cases that may be relevant during the COVID-19 crisis in India, includes sanitizing public places and making contact-less delivery of essential goods and medical supplies, which could include operations beyond visual line of sight.

Nevertheless, it is still a progressive step which will not only aid in disaster management but also provide a timely opportunity for private sector participation.

We have also covered some of the use cases for drones during COVID-19 crisis and the steps that may be taken by the Government of India in this regard, in our webinars on the subject conducted last month. Please click [here](#) to access our webinar on '*How do we accelerate Drone deliveries during lockdown?*' and click [here](#) to access our webinar on '*Use of Drones & Disruptive Technologies in AGRITECH*'.

– Harshil Agarwal, Prashant Prakhar & Huzefa Tavawalla

You can direct your queries or comments to the authors

¹ <https://inc42.com/datalab/is-sky-the-only-limit-for-drone-startups-in-india/>

² https://www.civilaviation.gov.in/sites/default/files/Public%20notice_GARUD_Exemptions%20for%20Covid-19_2%20May%202020.pdf

³ <https://garud.civilaviation.gov.in/registration>

⁴ <https://garud.civilaviation.gov.in/forms/generate/fomb>

⁵ <https://health.economictimes.indiatimes.com/news/industry/covid-19-mumbai-police-sures-surveillance-through-drones/74830706> & <https://www.hindustantimes.com/delhi-news/eye-in-the-sky-drones-drive-surveillance-in-delhi-s-containment-zones/story-uD2n3ZLLmgNRabOEEMHo8M.html>

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