

# DISPUTE RESOLUTION

AVIATION REGULATIONS  
DOING MORE THAN  
DRONING ON

## AVIATION REGULATIONS DOING MORE THAN DRONING ON

As technology progresses, so too must our laws. Drones, formally known as remotely piloted aircraft (RPA), have been around for at least a decade but their application was limited and costs prohibitive. Today, however, the dramatically increased availability of drones demands additional regulation of the skies. While the International Civil Aviation Organisation has yet to announce an international standard of drone regulation, South Africa's Ministry of Transport has introduced regulations, effective from 1 July 2015, which are among the most stringent anywhere on the globe.

These regulations will affect most drones, from those recording our news to those dispensing beer at music festivals (drones dispensing anything will be subject to additional licencing requirements). Prior to 1 July 2015, the only regulations affecting drones was captured in two brief sections of Part 94 of the Civil Aviation Regulations. Fortunately for hobbyists (those using model or toy aircraft), these sections still apply exclusively. This means that no licence would be required and distance thresholds are 150 feet above the surface and from any public road.

The newly adopted 29 page regulations (known as Part 101), apply to everything from private to commercial use. Private use regulation is fairly restricted and entails that:

- the use drone has no commercial interest;
- the drone is operated on property owned by the operator (or on property that the operator has the necessary permission to fly on); and
- distance thresholds (500m from the pilot and never higher than any obstacle within 300m from the pilot) of operation are maintained.

While certain universal standards of use still apply to private use, there is no obligation to have the RPA approved and registered nor is there a licencing requirement.

If one wants to operate a drone for anything other than private use, the drone must first be approved and registered by the South African Civil Aviation Authority while the operator will require a RPA pilot's licence. Acquiring the licence requires medical certification, certification of radiotelephony, English proficiency, flight training, and passing both a theoretical examination and skills test. The licence is valid for 24 months and applicants must be over 18 years old. The licence holder will have to undergo a revalidation check 90 days prior to the expiry of the licence in order to renew it.

RPA licences may be issued in three categories: aeroplane, helicopter or multi-rotor. Similar to conventional aircraft licencing, additional rating may be endorsed on a licence including visual line-of-sight operations, extended visual line-of-sight operations and beyond visual line-of-sight operations. RPA pilots will also have to maintain a pilot logbook detailing each flight.

*continued*

**2014**  
RANKED #1 BY DEALMAKERS  
FOR DEAL FLOW 6 YEARS IN A ROW  
1st in M&A Deal Flow, 1st in M&A Deal Value,  
1st in General Corporate Finance Deal Flow.

**2013**  
1st in M&A Deal Flow, 1st in M&A Deal Value,  
1st in Unlisted Deals - Deal Flow.

**2012**  
1st in M&A Deal Flow, 1st in General Corporate  
Finance Deal Flow, 1st in General Corporate Finance  
Deal Value, 1st in Unlisted Deals - Deal Flow.

**2011**  
1st in M&A Deal Flow, 1st in M&A Deal Value,  
1st in General Corporate Finance Deal Flow,  
Legal Advisor - Deal of the Year.

**DealMakers**

**HIGHEST  
RANKING  
OF CLIENT  
SATISFACTION  
AMONGST  
AFRICAN  
FIRMS 2013**

**Legal Week**

WE SECURED  
THE BIG

**5**

WE ARE THE NO.1 LAW FIRM  
FOR CLIENT SERVICE EXCELLENCE  
FIVE YEARS IN A ROW.

**pml**  
africa

**2014**  
#No1DealPartner

**NO 1 LAW FIRM**  
BY M&A DEAL COUNT IN  
AFRICA AND THE MIDDLE EAST

**NO 1 AFRICAN LAW FIRM**  
BY M&A DEAL VALUE  
WITH 9.2 BILLION USD  
WORTH OF DEALS

**MERGERMARKET**

If the above regulations seem strict, the regulations to operate an entire Remotely Piloted Aircraft System are even stricter. They include:

- licencing with a lifespan of 12 months at a time;
- requirements to report to the Director of Civil Aviation; and
- the development of an operations manual indicating how they intend to comply with the regulations (which further include requirements to do background and criminal checks on staff, adequate document security and third party liability insurance).

The general regulations on the use of any drone (including for private use) restrict alcohol consumption, require pre-flight preparations, limit the operation to a lateral distance of 50m from any structure or public road and require that the operator maintains at least a 10% surplus fuel reserve and has a first aid kit and a fire extinguisher within 300m of the take-off and landing point/s. Considering traffic, drones must always give way to manned aircraft.

The practical applications of RPA are endless and thus the regulation of the industry was inevitable. As most other jurisdictions lag behind on regulating the drone industry, South Africa is leading the fleet and has developed an extensive policy which places the requirements of RPA pilots closer to those of manned piloted aircraft pilots. The regulations evidently aim to manage drones in the civil sphere with a significant emphasis on safety and training. The infinite applications of RPA require stringent regulation, especially considering the lack of an international framework and the infancy of the industry.

While anybody above the age of 18 will be allowed to purchase a drone (with or without a licence), the regulations restrict the use of drones dramatically. It is advisable that people and organisations making use of drones seek advice to develop a policy, in line with the new regulations, to avoid non-compliance and criminal sanctions.

*Anja Hofmeyr and Richard Chemaly*

## CONTACT US

For more information about our Dispute Resolution practice and services, please contact:



**Tim Fletcher**  
National Practice Head  
Director  
T +27 (0)11 562 1061  
E tim.fletcher@dlacdh.com



**Grant Ford**  
Regional Practice Head  
Director  
T +27 (0)21 405 6111  
E grant.ford@dlacdh.com

**Adine Abro**  
Director  
T +27 (0)11 562 1009  
E adine.abro@dlacdh.com

**Roy Barendse**  
Director  
T +27 (0)21 405 6177  
E roy.barendse@dlacdh.com

**Eugene Bester**  
Director  
T +27 (0)11 562 1173  
E eugene.bester@dlacdh.com

**Sonia de Vries**  
Director  
T +27 (0)11 562 1892  
E sonia.devries@dlacdh.com

**Lionel Egypt**  
Director  
T +27 (0)21 481 6400  
E lionel.egypt@dlacdh.com

**Jackwell Feris**  
Director  
T +27 (0)11 562 1825  
E jackwell.feris@dlacdh.com

**Thabile Fuhmann**  
Director  
T +27 (0)11 562 1331  
E thabile.fuhmann@dlacdh.com

**Craig Hindley**  
Director  
T +27 (0)21 405 6188  
E craig.hindley@dlacdh.com

**Anja Hofmeyr**  
Director  
T +27 (0)11 562 1129  
E anja.hofmeyr@dlacdh.com

**Willem Janse van Rensburg**  
Director  
T +27 (0)11 562 1110  
E willem.jansevanrensburg@dlacdh.com

**Julian Jones**  
Director  
T +27 (0)11 562 1189  
E julian.jones@dlacdh.com

**Richard Marcus**  
Director  
T +27 (0)21 481 6396  
E richard.marcus@dlacdh.com

**Burton Meyer**  
Director  
T +27 (0)11 562 1056  
E burton.meyer@dlacdh.com

**Rishaban Moodley**  
Director  
T +27 (0)11 562 1666  
E rishaban.moodley@dlacdh.com

**Nick Muller**  
Director  
T +27 (0)21 481 6385  
E nick.muller@dlacdh.com

**Byron O'Connor**  
Director  
T +27 (0)11 562 1140  
E byron.oconnor@dlacdh.com

**Sam Oosthuizen**  
Director  
T +27 (0)11 562 1067  
E sam.oosthuizen@dlacdh.com

**Marius Potgieter**  
Director  
T +27 (0)11 562 1142  
E marius.potgieter@dlacdh.com

**Lucinde Rhoodie**  
Director  
T +27 (0)21 405 6080  
E lucinde.rhoodie@dlacdh.com

**Brigit Rubinstein**  
Director  
T +27 (0)21 481 6308  
E brigitt.rubinstein@dlacdh.com

**Willie van Wyk**  
Director  
T +27 (0)11 562 1057  
E willie.vanwyk@dlacdh.com

**Joe Whittle**  
Director  
T +27 (0)11 562 1138  
E joe.whittle@dlacdh.com

**Jonathan Witts-Hewinson**  
Director  
T +27 (0)11 562 1146  
E witts@dlacdh.com

**Pieter Conradie**  
Executive Consultant  
T +27 (0)11 562 1071  
E pieter.conradie@dlacdh.com

This information is published for general information purposes and is not intended to constitute legal advice. Specialist legal advice should always be sought in relation to any particular situation. Cliffe Dekker Hofmeyr will accept no responsibility for any actions taken or not taken on the basis of this publication.

## BBBEE STATUS: LEVEL TWO CONTRIBUTOR

### JOHANNESBURG

1 Protea Place Sandton Johannesburg 2196, Private Bag X40 Benmore 2010 South Africa  
Dx 154 Randburg and Dx 42 Johannesburg  
T +27 (0)11 562 1000 F +27 (0)11 562 1111 E jhb@dlacdh.com

### CAPE TOWN

11 Buitengracht Street Cape Town 8001, PO Box 695 Cape Town 8000 South Africa  
Dx 5 Cape Town  
T +27 (0)21 481 6300 F +27 (0)21 481 6388 E ctn@dlacdh.com

[cliffedekkerhofmeyr.com](http://cliffedekkerhofmeyr.com)

Cliffe Dekker Hofmeyr is a member of DLA Piper Group, an alliance of legal practices.

©2015 0552/JUNE