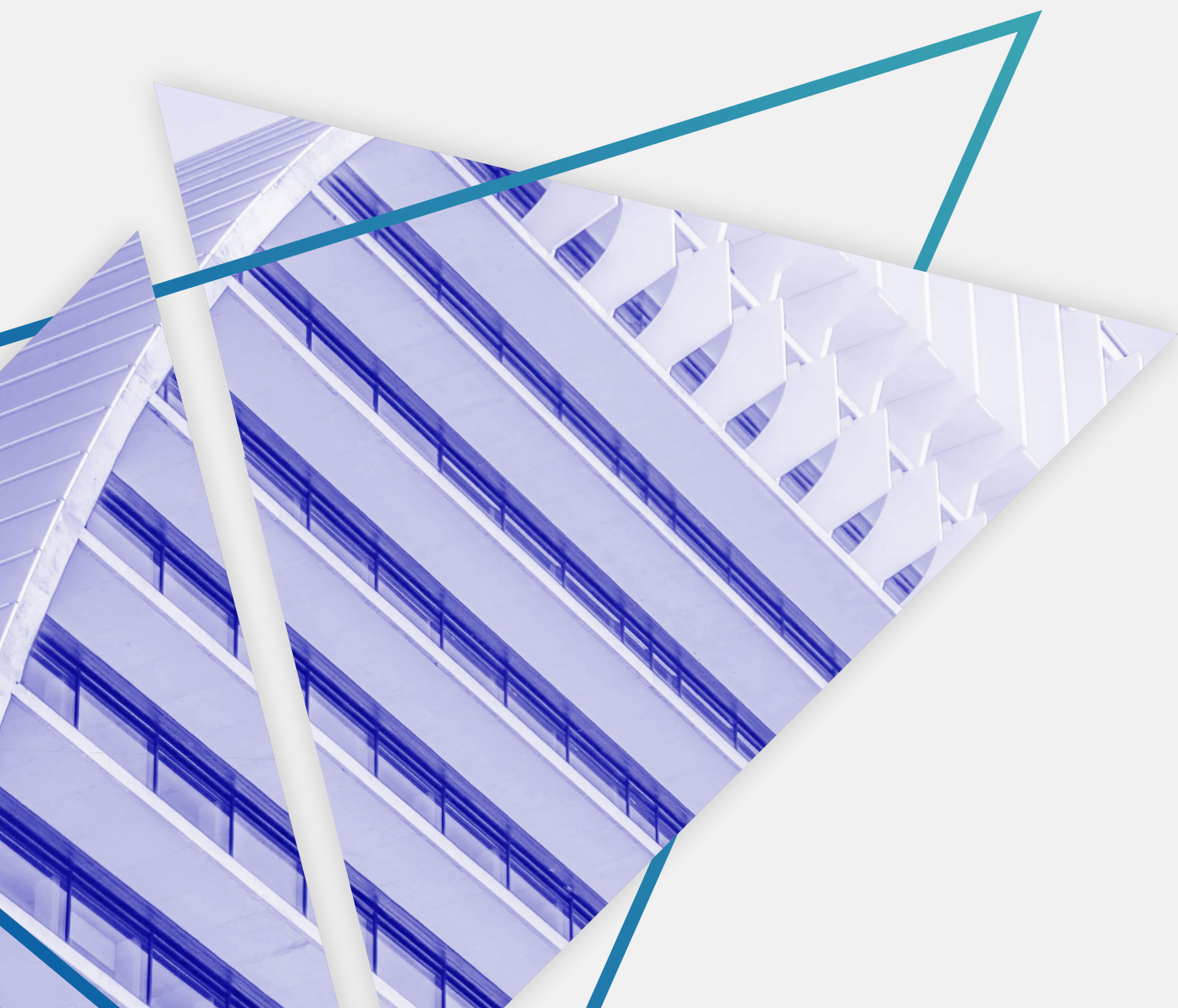


Corporate & Commercial

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In this issue

SOUTH AFRICA

Drone operations in South Africa:
An overview of the legal landscape



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Drone operations in South Africa: An overview of the legal landscape

In recent years, South Africa has embraced drone technology, with both hobbyists and commercial operators leveraging its potential. Drones, technically known as remotely piloted aircraft systems (RPAS) or unmanned aircraft (UA), are transforming various industries, including mining, agriculture, construction, environmental monitoring, emergency response, real estate and infrastructure inspection. In light of this, it is necessary for both private and commercial operators to understand the laws governing drone usage in South Africa to ensure safe and legal operations. Below is a brief overview of the current legal landscape.

The regulatory journey of drone regulations in South Africa

The South African Civil Aviation Authority (SACAA) is mandated to regulate drones operating within the country. The first regulations were gazetted in May 2015 as the Eighth Amendment of the Civil Aviation Regulations, Part 101: Remotely Piloted Aircraft Systems, under the Civil Aviation Act 13 of 2009 (Civil Aviation Regulations). These regulations aim to balance innovation with safety and privacy concerns. Since then, the regulations have undergone various revisions, with the latest updates implemented in 2023.

Private versus commercial use

The Civil Aviation Regulations distinguish between two primary categories of drone operations: private and commercial use.

Private drone operation refers to the personal, non-commercial use of drones for recreational flying or hobbyist activities. Private operators do not need to register their drones or obtain a Remote Pilot License. However, private operators must adhere to basic safety guidelines and regulations to ensure safe and responsible flying.

Commercial drone operation refers to the use of drones of varying specifications for economic gain, such as aerial photography, surveying, or providing inspection services in the industries mentioned above. Commercial operators are required to register their drones under Part 101 of the Civil Aviation Regulations and obtain a Remote Pilot License.

Drone operations in South Africa: An overview of the legal landscape

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Guidelines for private use

The SACAA has established guidelines to ensure safe and responsible operation of drones for private use, including:

- **Maintain visual line of sight:** Operators must keep their drone within visual line of sight at all times. The remote pilot must maintain direct, unaided visual contact with the drone to manage its flight and ensure separation and collision avoidance.
- **Altitude limit:** Drones should not be flown higher than 120m (400 feet) above ground level.
- **Avoid obstacles:** Operators must stay clear of obstacles such as buildings, trees and power lines.
- **Distance from people and property:** Drones must be kept at least 50m (164 feet) away from people, vehicles, and animals.
- **Restricted areas:** Drones should not be flown over populated areas, national parks or sensitive infrastructure.

Commercial licensing

Part 101.02.4(1) of the Civil Aviation Regulations specifies that no unmanned aircraft shall be operated in South Africa unless it has been issued with a certificate of registration by the Director of the SACAA.

In addition to registering the drone, the drone operator will need to hold the following certifications and licenses:

- Air Service License
- RPAS Operator Certificate
- RPA Letter of Approval
- Remote Pilot License

Each of these certificates and licenses has its own application process, supported by a range of supplementary documents and manuals that accompany the application process. The application requirements are detailed in the Civil Aviation Regulations.

Criticism of the licensing process, which closely aligns with manned aircraft licensing requirements, includes that it is overly restrictive and burdensome for many drone users. The Remote Pilot License requirements include obtaining a Class 3 or higher Aviation Medical Certificate, passing a theoretical exam as well as meeting stipulated practical training requirements, which can be cost-prohibitive and time-consuming for recreational or small commercial operators.

Non-compliance

Drone operators who fail to adhere to Civil Aviation Regulations may face severe penalties, including a prison sentence of up to 10 years, a fine of R50,000, or both. Additionally, individuals found to be using drones irresponsibly may face legal liability for violating laws enforced by other government agencies.

Drone operations in South Africa: An overview of the legal landscape

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Any drone flight or operation must obtain the necessary approvals beyond the SACAA framework requirements to the extent applicable. This includes:

- **Permission from individuals:** Approval must be obtained from any people being flown over or near.
- **Landowner consent:** Permission must be granted by the landowner where the flight will take place.
- **Neighbouring sites approval:** Authorisation must be secured from neighbouring sites that may be affected by the drone operation.

A global view

When comparing drone regulations globally, South Africa's approach shares similarities with many countries. Common themes include proximity to airports, weight limits and visual line of sight requirements. However, significant differences emerge in registration and licensing requirements, daylight flying rules and restrictions on flying over national parks.

In Africa, drone regulations vary widely. Countries like Morocco and Egypt have embraced drone technology with more relaxed regulations, while others have imposed strict bans or restrictive rules. South Africa's regulations strike a balance between innovation and safety, incorporating privacy concerns into the legal framework.

Western nations such as the US, Canada, and those in the European Union have more developed drone regulations. These countries often permit more extensive commercial

use of drones while recreational drone use tends to be more relaxed. These comprehensive regulatory frameworks enable broader integration of drone technology into various industries.

It is apparent from the global approach that transparency and stakeholder inclusion are essential when developing drone regulations. Countries with overly strict drone regulations are not finding success in enforcement. Compliance rates are low, as the burdensome requirements deter many operators. Effective regulation requires a balanced approach that ensures safety while accommodating the needs and interests of all stakeholders. Engaging stakeholders in the regulatory process and maintaining transparency can foster co-operation and compliance, leading to more effective and sustainable drone regulations.

Future of drones in South Africa

Understanding the legal landscape of drone operations in South Africa is essential for anyone looking to leverage this technology. With the SACAA continually adapting regulations to keep pace with technological advancements, we hope to see a robust regulatory environment that fosters compliance while allowing for flexibility and growth. The framework should encourage investment in South Africa and support the expansion of the drone industry, positioning the country as a leader in innovative drone usage across various sectors.

Jaco Meyer and Haafizah Khota

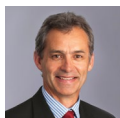
OUR TEAM

For more information about our Corporate & Commercial practice and services in South Africa and Kenya, please contact:



Ian Hayes

Practice Head & Director:
Corporate & Commercial
T +27 (0)11 562 1593
M +27 (0)83 326 4826
E ian.hayes@cdhlegal.com



David Thompson

Deputy Practice Head & Director:
Corporate & Commercial
T +27 (0)21 481 6335
M +27 (0)82 882 5655
E david.thompson@cdhlegal.com



Sammy Ndolo

Managing Partner | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E sammy.ndolo@cdhlegal.com

Kate Anderson

Director:
Corporate & Commercial
T +27 (0)11 562 1105
M +27 (0)82 418 3784
E kate.anderson@cdhlegal.com

Tessa Brewis

Director:
Corporate & Commercial
T +27 (0)21 481 6324
M +27 (0)83 717 9360
E tessa.brewis@cdhlegal.com

Vivien Chaplin

Sector Head: Mining & Minerals
Director: Corporate & Commercial
T +27 (0)11 562 1556
M +27 (0)82 411 1305
E vivien.chaplin@cdhlegal.com

Clem Daniel

Director:
Corporate & Commercial
T +27 (0)11 562 1073
M +27 (0)82 418 5924
E clem.daniel@cdhlegal.com

Johan de Lange

Deputy Practice Head:
Finance & Banking
Director: Projects & Infrastructure
T +27 (0)21 481 646
M +27 (0)78 642 5573
E johan.delange@cdhlegal.com

Andrew Giliam

Director:
Corporate & Commercial
T +27 (0)21 481 6363
M +27 (0)83 359 7069
E andrew.giliam@cdhlegal.com

John Gillmer

Joint Sector Head: Private Equity
Director: Corporate & Commercial
T +27 (0)21 405 6004
M +27 (0)82 330 4902
E john.gillmer@cdhlegal.com

Allan Hannie

Director:
Corporate & Commercial
T +27 (0)21 405 6010
M +27 (0)82 373 2895
E allan.hannie@cdhlegal.com

Peter Hesseling

Director:
Corporate & Commercial
T +27 (0)21 405 6009
M +27 (0)82 883 3131
E peter.hesseling@cdhlegal.com

Quintin Honey

Director:
Corporate & Commercial
T +27 (0)11 562 1166
M +27 (0)83 652 0151
E quintin.honey@cdhlegal.com

Willem Jacobs

Director:
Corporate & Commercial
T +27 (0)11 562 1555
M +27 (0)83 326 8971
E willem.jacobs@cdhlegal.com

Rachel Kelly

Director:
Corporate & Commercial
T +27 (0)11 562 1165
M +27 (0)82 788 0367
E rachel.kelly@cdhlegal.com

Yaniv Kleitman

Director:
Corporate & Commercial
T +27 (0)11 562 1219
M +27 (0)72 279 1260
E yaniv.kleitman@cdhlegal.com

Dane Kruger

Director:
Corporate & Commercial
T +27 (0)21 481 6362
M +27 (0)74 914 1402
E dane.kruger@cdhlegal.com

André de Lange

Sector Head: Agriculture, Aquaculture
& Fishing Sector
Director: Corporate & Commercial
T +27 (0)21 405 6165
M +27 (0)82 781 5858
E andre.delange@cdhlegal.com

Martha Mbugua

Partner | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E martha.mbugua@cdhlegal.com

Jaco Meyer

Director:
Corporate & Commercial
T +27 (0)11 562 1749
M +27 (0)83 477 8352
E jaco.meyer@cdhlegal.com

Anita Moolman

Director:
Corporate & Commercial
T +27 (0)11 562 1376
M +27 (0)72 252 1079
E anita.moolman@cdhlegal.com

Wayne Murray

Director:
Corporate & Commercial
T +27 (0)21 405 6018
M +27 (0)79 691 0137
E wayne.murray@cdhlegal.com

OUR TEAM

For more information about our Corporate & Commercial practice and services in South Africa and Kenya, please contact:

Francis Newham

Executive Consultant:
Corporate & Commercial
T +27 (0)21 481 6326
M +27 (0)82 458 7728
E francis.newham@cdhlegal.com

David Pinnock

Joint Sector Head: Private Equity
Director: Corporate & Commercial
T +27 (0)11 562 1400
M +27 (0)83 675 2110
E david.pinnock@cdhlegal.com

Allan Reid

Executive Consultant:
Corporate & Commercial
T +27 (0)11 562 1222
M +27 (0)82 854 9687
E allan.reid@cdhlegal.com

Jess Reid

Director:
Corporate & Commercial
T +27 (0)11 562 1128
M +27 (0)83 571 6987
E jess.reid@cdhlegal.com

Megan Rodgers

Sector Head: Oil & Gas
Director: Corporate & Commercial
T +27 (0)21 481 6429
M +27 (0)79 877 8870
E megan.rodgers@cdhlegal.com

Ludwig Smith

Joint Sector Head:
Financial Institutions, Services & Fintech
Director: Corporate & Commercial
T +27 (0)11 562 1500
M +27 (0)79 877 2891
E ludwig.smith@cdhlegal.com

Tamarin Tosen

Director:
Corporate & Commercial
T +27 (0)11 562 1310
M +27 (0)72 026 3806
E tamarin.tosen@cdhlegal.com

Roxanna Valayathum

Joint Sector Head: Pharmaceuticals
Director: Corporate & Commercial
T +27 (0)11 562 1122
M +27 (0)72 464 0515
E roxanna.valayathum@cdhlegal.com

Roux van der Merwe

Director:
Corporate & Commercial
T +27 (0)11 562 1199
M +27 (0)82 559 6406
E roux.vandermerwe@cdhlegal.com

Andrew van Niekerk

Head: Projects & Infrastructure
Director: Corporate & Commercial
T +27 (0)21 481 6491
M +27 (0)76 371 3462
E andrew.vanniekerk@cdhlegal.com

Njeri Wagacha

Partner | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E njeri.wagacha@cdhlegal.com

Charl Williams

Director:
Corporate & Commercial
T +27 (0)21 405 6037
M +27 (0)82 829 4175
E charl.williams@cdhlegal.com

Alistair Young

Director:
Corporate & Commercial
T +27 (0)11 562 1258
M +27 (0)84 676 1171
E Alistair.young@cdhlegal.com

Emma Hewitt

Practice Management Director:
Corporate & Commercial
T +27 (0)11 562 1635
M +27 (0)82 896 1332
E emma.hewitt@cdhlegal.com

Alecia Pienaar

Counsel:
Environmental Law
M +27 (0)82 863 6272
E alecia.pienaar@cdhlegal.com

Christelle Wood

Counsel:
Corporate & Commercial
T +27 (0)11 562 1372
M +27 (0)83 498 2850
E christelle.wood@cdhlegal.com

BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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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@cdhlegal.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@cdhlegal.com

NAIROBI

Merchant Square, 3rd floor, Block D, Riverside Drive, Nairobi, Kenya. P.O. Box 22602-00505, Nairobi, Kenya.

T +254 731 086 649 | +254 204 409 918 | +254 710 560 114

E cdhkenya@cdhlegal.com

STELLENBOSCH

14 Louw Street, Stellenbosch Central, Stellenbosch, 7600.

T +27 (0)21 481 6400 E cdh Stellenbosch@cdhlegal.com

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