

Legal update - New rules regulating drones come into force

Mark Odlin

31 July 2015

From 1 August 2015, new rules regulating the use of Remotely Piloted Aircraft (RPAs), more commonly known as drones, come into force.

What are remotely piloted aircraft?

As their name suggests, RPAs are aircraft without a human pilot aboard and include radio controlled model aircraft. RPAs are commonly used to capture aerial footage for news, real estate and recreational purposes and have significant potential for further use in the transport, farming, agriculture and forestry sectors.

What are the new rules?

Currently there is little formal regulation explicitly controlling the use of RPAs.

As discussed below, the amended Civil Aviation Rules ([Rules](#)) introduce minimum requirements for 'RPA operators', being persons in control of an RPA. RPA operators who cannot comply with the new minimum requirements must obtain an operating certificate.

The new Rules are intended to "[improve aviation safety for operators, other airspace users and people and property](#)." The Civil Aviation Authority can investigate the safety of specific RPA operations and send warnings, impose fines or prosecute operators flying RPAs in breach of the new Rules.

New minimum requirements

RPA operators must obtain consent from a person or property owner or occupier before flying an RPA above that person or their land. Also, RPA operators must:

- Fly their RPAs in a safe manner
- Prevent objects being dropped in flight if this will create a hazard
- Not fly RPAs more than 120 metres above ground level
- Be able to see their RPA with their own eyes (without assistance) and keep their RPA clear of cloud
- Give way to all crewed aircraft
- Not fly RPAs outside during the night
- Not fly RPAs within 4km of any aerodrome boundary (including uncontrolled airspace) or in any designated "Special Use" airspace (including low fly zones), restricted or military operating areas without obtaining the requisite authority from the responsible Air Traffic Control Unit or other controlling authority
- Obtain approval from an approved model aircraft association if they wish to fly an RPA weighing between 15 and 25kg.

New certification scheme

An RPA operator who cannot comply with the new minimum requirements, or wishes to fly an RPA weighing more than 25kg, must apply to the Director of Civil Aviation for certification to operate lawfully.

Before issuing a certificate the Director must be satisfied that the RPA operator has a plan to mitigate identified risks. The Director may contact territorial authorities to seek their views on proposed RPA operations for certification purposes. The certificate may be subject to conditions and registration requirements, and lasts for up to five years unless renewed.

Other requirements for RPA operators

RPA operators must still comply with other related legislation. For example, they must:

- Operate their RPA at a permitted radio frequency which will not interfere with vital radio systems
- Comply with the Privacy Act 1993 (relating to the collection, use, disclosure and storage of personal information), the Crimes Act 1961 (prohibiting the making and publishing of covert intimate recordings of people without their consent) and the Summary Offences Act 1981 (prohibiting peering into people's homes and recording any activities within).

The Office of the Privacy Commissioner has warned that persons using RPA operated cameras must make sure the people concerned are aware that they are collecting the information, and should take special care about how the information is used and to whom it is shown.

What does this mean for territorial authorities?

Territorial authorities may be approached for consent to have RPAs flown in the airspace above land they administer or own (eg a park). Territorial authorities will need to consider their options and may wish to develop policies when considering such requests.

Some territorial authorities have chosen to include drone regulation in bylaws which restrict the use of RPAs in certain public areas. Territorial authorities contemplating regulating the use of RPAs through implementing a bylaw will need to ensure that any such bylaw complies with the Local Government Act 2002 requirements, such as ensuring that the passing of such a bylaw is the most appropriate mechanism for the circumstances and that a consultative process is followed.

The Civil Aviation Authority encourages public landowners to be proactive, for example by erecting signage at a park entrance indicating whether or not RPA flights are allowed. It also directs interested members of the public to ask their territorial authority about controls around flying RPAs in public spaces.

Auckland

188 Quay Street
Auckland 1010

PO Box 1433
Auckland 1140
New Zealand

P: +64 9 358 2555

F: +64 9 358 2055

Wellington

Aon Centre
1 Willis Street
Wellington 6011

PO Box 2694
Wellington 6140
New Zealand

P: +64 4 499 4242

F: +64 4 499 4141

Christchurch

83 Victoria Street
Christchurch 8013

PO Box 322
Christchurch 8140
New Zealand

P: +64 3 379 1747

F: +64 3 379 5659