

The future of flying drones in South Africa

By [Kiasha Nagiah](#)

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Drones are becoming part of everyday life for people and businesses. The potential private and commercial applications are endless. But there are very few licenced commercial drone operators in the country, with many users operating drones illegally because of the cost and complexity of compliance. The authorities simply do not have the means to enforce compliance in all but the most egregious offences. But, regulatory changes are anticipated which may make licensing of commercial operations simpler and more cost effective, which will be a welcome development for the drone industry and associated industries in South Africa.



Image source: Getty Images

Drone regulation

Currently, drones (or remotely piloted aircraft systems) are aircraft and are regulated by the Civil Aviation Act and Part 101 of the Civil Aviation Regulations. Part 101 of the Civil Aviation Regulations regulates the use of drones, except for model aircraft, toy aircraft, non-type certificated aircraft or unmanned autonomous aircraft (ie aircraft that are not piloted by a person).

The Part places a significant regulatory burden on commercial drone operators akin to that of ordinary commercial aircraft operators. The requirements include registration of the drones, licensing of pilots, and licensing of the operator by both the Civil Aviation Authority and the Air Services Licensing Council. Insofar as private operations are concerned, matters are more relaxed. The drones are not registered and there are no pilot or operator licensing requirements.

Part 101 has been in force since 2015 and to a large extent reflected international practice of drone regulation at the time. At the time, drone use was relatively untested but the potential for harm and damage readily foreseeable.

The result was is a regulatory framework which prohibits many types of drone operations. For example, unless specifically authorised by the Civil Aviation Authority (which only a licensed commercial operator can obtain), a drone may not:

- i. fly above 400 feet from the surface,
- ii. fly within 50m of a person or building
- iii. fly at night
- iv. fly in bad weather conditions
- v. fly beyond visual sight
- vi. fly in controlled air space
- vii. take off or land on a public road
- viii. release or dispense objects or substances
- ix. carry dangerous goods or
- x. perform aerial or aerobatic displays.

Internationally, there is a move to reduce the number and extent of these blanket prohibitions and to limit the requirements for commercial licensing depending on the weight of the drone and the operating environment. These legislative amendments are being implemented in other jurisdictions as regulators become more comfortable with the public and small businesses using drones, and with the understanding that enforcement of the overly prescriptive legislative requirements is impossible.

There is talk of South Africa adopting a more permissive and flexible regulatory approach to drone use. This will be a welcome development by the drone industry, and by other industries wanting to incorporate drone use into their operations; however, these changes will take time to develop and implement.

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