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## Amendments of the Civil Aeronautics Act to Introduce New Rules Restricting UAVs

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### I. Introduction

The Japanese public and government turned their attention to the flight of drones after a drone landed on the roof of the Prime Minister's office on April 22, 2015. On September 11, 2015, an amendment to the Civil Aeronautics Act (*Koku Ho*) (the "**Act**") was adopted to introduce safety rules on unmanned aircraft vehicles. In the wake of the amendment of the Act, the Ministry of Land, Infrastructure, Transport, and Tourism (the "**MLIT**") published a proposal to amend the ordinance under the Act (the "**Ordinance**") and sought public comments by October 15, 2015. The proposed Ordinance drew the attention of drone businesses as it will set out the detailed rules under the amended Act. The amended Ordinance based on public comments will be issued by the MLIT around early November, and the amended Act and Ordinance will be effective around early December.

### II. Amendment to the Civil Aeronautics Act

Before the amendment, the Act did not expressly restrict unmanned aircraft vehicles; only "aircraft" (*koukuki*) and incidents that can affect the safety of flight by an "aircraft" were subject to the Act. Unmanned aircraft vehicles do not fall within the definition of an aircraft because aircraft is defined as any aeroplane, rotorcraft, glider and airship which can be used for air navigation with a person on board.

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Under the amendment to the Act, the definition of “Unmanned Aircraft Vehicle” (*mujin hikouki*) (“**UAV**”) will be newly introduced. Literally, a UAV is defined as “any aeroplane, rotorcraft, glider, or airship and any other apparatus which can be used for air navigation but which cannot accommodate any person on board and can be remotely or automatically piloted”. Under the proposed Ordinance, items lighter than 200 grams will be exempted from the definition of UAV.

The amended Act introduces limitations in light of (1) areas for flight, and (2) operation.

### 1. Prohibited Airspaces for Flight

New Article 132 of the Act requires a person who intends to operate a UAV in the following airspaces to obtain permission from the Minister of the MLIT (the “**Minister**”):

- (i) airspace which is likely to affect the safe operation of aircraft; and
- (ii) airspace which is above densely populated areas.

Both of (i) and (ii) above are subject to specifications under the Ordinance. According to the proposed Ordinance, an (i) “airspace which is likely to affect the safe operation of aircraft” is airspace above airports and their vicinity, and airspaces 150 meters above ground level or water surface.

As for (ii), the proposed Ordinance mentions that “densely populated areas” is a Densely Inhabited District (*jinko shuchu chiku*) (“**DID**”) designated by the result of the national census. A DID is, in principle, an area with a population density of 5,000 people or more per 1 square kilometer. The proposed Ordinance also notes that there would be certain exemptions to a DID classification, which the Minister will designate by notice.

### 2. Operational Limitations

New Article 132-2 lists the following operational conditions:

Unless approved by the Minister, an operator of UAVs must:

- (i) operate UAVs only in the daytime;
- (ii) operate UAVs within the visual line of sight of the operator;

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- (iii) maintain a certain operating distance (specified in the Ordinance) between UAVs and persons or properties on the ground or water surface;
- (iv) not operate UAVs over event sites where many people gather;
- (v) not transport hazardous materials specified in the Ordinance by UAVs; and
- (vi) not drop any objects from UAVs except for the goods specified in the Ordinance.

Regarding (iii), under the proposed Ordinance, an operator must maintain 30 meters between UAVs and persons or properties on the ground or water surface.

Regarding (v), the proposed Ordinance specifies the goods that cannot be transported, such as, gunpowder, toxic substances, and weapons (which are the same that aircraft cannot transport).

### 3. Minister's Permission or Approval

As described above, if an operator obtains the Minister's permission or approval, it is possible to operate UAVs in prohibited airspaces or without meeting operational conditions. The MLIT published, together with the proposed Ordinance, a proposed guide describing procedures and necessary documents to obtain the permission or approval. An operator must submit an application for permission or approval, in general, 15 days before flight of UAVs. The application must specify, among other things, the functions of UAVs, skills of operators and the time, place and route of flights.

### 4. Exceptions

The requirements mentioned above in "1. Prohibited Areas for Flight," and "2. Operational Limitations" do not apply to flights for search and rescue operations by public organizations such as police and other persons requested by public organizations in case of accidents and disasters.

### 5. Penalties

The penalty for violating the above restrictions is a fine up to JPY 500,000.

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### III. Bill to Restrict UAVs from Flying near Important Facilities

Other than the amendment of the Act, there is another bill that would restrict the flight of UAVs. That bill is to restrict UAVs from flying near important facilities, and it passed the House of Representatives (*shugi-in*) in July 2015.

The bill would restrict the flight of UAVs near important facilities such as the Diet Building, the Prime Minister's office, the Supreme Court building, the Imperial Palace, and nuclear power plants.

The bill has not passed the House of Councilors (*sangi-in*) yet, and the ordinary session of the Diet has closed as of September 27, 2015. It will be deliberated in next Diet session.

### IV. Next Steps

The regulations on UAVs will be significantly changed by the amendment to the Act. Operators of UAVs will be required to obtain permission or approval for most of their flights, specifically in a DID, which would place stringent regulations on the operators.

The technologies for UAVs are advancing very rapidly. While the new regulations were established in an urgent manner after the landing of a drone on the roof of the Prime Minister's office, the government will continue to improve the regulations for sound development of the UAV business in Japan, as stipulated in a supplemental provision of the amendment.

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