

## Client Alert

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## Recent Amendments to the Civil Aeronautics Act Regarding Drone Flights

### Drone Flights Authorized Over Populated Areas

In Japan, drones weighing 100 g or more are categorized as "Unmanned Aircraft" and are subject to the regulations contained in the Civil Aeronautics Act.<sup>1</sup>

The Civil Aeronautics Act was amended on December 5, 2022 (the "Revised Civil Aeronautics Act") dividing drone flights into three categories under Japanese Law. The amendments also relaxed the regulations applicable to drone flights more generally. Under the Revised Civil Aeronautics Act, unaided drone flights which fly beyond the line of sight<sup>2</sup> of an operator without an assistant in populated areas — banned under the previous regime — are now defined as "Category III Flights" and are permitted subject to the satisfaction of certain conditions, which include the obtaining of a permit and approval for each flight.

With respect to newly named Category II Flight, under the previous regime, a permit and an approval was needed for each drone flight over unpopulated areas or over populated areas with entry control measures. These types of flights now fall under the label of "Category II Flights" under the Revised Civil Aeronautics Act, and subject to the satisfaction of certain conditions, no longer require a permit and approval prior to each individual flight.

As a result of the introduction of Category III Flights, it will be possible for drones to fly over central areas of Tokyo subject to the obtaining of a permit and approval for each flight without having to organize entry control measures over the flight path.

As a result of the relaxation of regulations concerning Category II Flights, it will be possible to establish "drone ports" in uninhabited/underpopulated areas and run logistics businesses utilizing drones without the need to obtain a permit and approval for each flight (provided that the necessary conditions are met). It is expected that these updates brought about by the Revised Civil Aeronautics Act will expand the possibilities for running drone-related businesses in Japan.

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<sup>1</sup> The flight of drones over important facilities, such as the National Diet Building and defense-related facilities are regulated separately under the "Law Concerning the Prohibition of Flights of Small Unmanned Vehicles over Areas Surrounding Important Facilities" (Law No. 9 of 2016)(<https://www.npa.go.jp/english/uas/uas.html>)

<sup>2</sup> Also known as Level 4 flights.

In this Alert, we will explore key sections of the Revised Civil Aeronautics Act and outline the requirements for drone flights under each of its three new categories.

## 1. Regime before the Revised Civil Aeronautics Act

Before the Revised Civil Aeronautics Act, it was necessary to obtain a permit and approval from the Minister of Land, Infrastructure and Transport (MLIT) for each drone flight that fell under one of the below categories. In practice, the MLIT did not grant permits and approvals where third-party entry management measures were not employed in relation to such flights.<sup>3</sup>

- Flights over restricted airspace (permission required)<sup>4</sup>: in the vicinity of an airport,<sup>5</sup> flights above an altitude of 150 m, flights over densely populated areas (DID)<sup>6</sup> and emergency service areas.<sup>7</sup>
- Flights utilizing prohibited flight methods (approval required)<sup>8</sup>: night flights, beyond line of sight, within 30 m of people/property, flights over events,<sup>9</sup> transportation of hazardous materials and object drops.<sup>10</sup>

## 2. Regime after the Revised Civil Aeronautics Act

### 2.1 Overview of flight categories

As a result of the Revised Civil Aeronautics Act, the restrictions on Category III Flights were lifted and the conditions required for Category II Flights were relaxed. Flights that fall under the label of "Category I Flights" which do not fall under either of the below categories do not require a permit or approval under the new regime (and likewise did not under the old regime).

- Category III: "Specified Flights" without "entry management measures."

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<sup>3</sup><https://www.mlit.go.jp/common/001254115.pdf>

<sup>4</sup> Civil Aeronautics Act Article 132 (1).

<sup>5</sup> Please see the following link for further information regarding specific airspace.  
[https://www.mlit.go.jp/koku/koku\\_tk10\\_000004.html](https://www.mlit.go.jp/koku/koku_tk10_000004.html)

<sup>6</sup> To be determined by a national census held in a year determined by the MLIT through notification (Civil Aeronautics Act Article 132 (1) and (2), Regulation for Enforcement of the Civil Aeronautics Act 236 (13)). Please see the following link for areas designated as densely populated areas:  
[https://www.stat.go.jp/data/chiri/map/c\\_koku/kyokaizu/index.html](https://www.stat.go.jp/data/chiri/map/c_koku/kyokaizu/index.html)

<sup>7</sup> When aircrafts are expected to fly for emergency work, such as for police work and for fire-fighting activities, the relevant airspace will be designated as emergency service airspace in which unmanned aircrafts are prohibited in principle. The designation will be announced on the MLIT's website and through Twitter.

<sup>8</sup> Civil Aeronautics Act Article 132 (2).

<sup>9</sup> The airspace above places where ceremonies, festivals, exhibitions and other events are being held which are attended by a large number of persons (Civil Aeronautics Act Article 132 (2)(1)(8)).

<sup>10</sup> Where an unmanned aircraft is used to install/place objects on the ground, this will not constitute an "object drop."



- Category II: "Specified Flights" with "entry management measures."

"Entry management measures" are defined under the Revised Civil Aeronautics Act and also the Revised Ordinance for Enforcement of the Civil Aeronautics Act as the, "assignment of assistants, establishment of zones for restricted entry and other appropriate measures."<sup>11</sup> Further guidance will likely be shared on this point before too long.<sup>12</sup>

"Specified Flights" mean flight categories which required permits and approvals under the previous Civil Aeronautics Act (as detailed in section 1 above).

## **2.2 Preconditions for Category III and Category II Flights**

### **(a) Category III Flights**

Under the Revised Civil Aeronautics Act, Category III Flights may only be conducted subject to the satisfaction of all of the below conditions and upon obtaining a permit and approval prior to each flight.

- Obtain a Certificate of Airworthiness (type 1).
- Obtain an Unmanned Aerial Vehicle Operator License (1st class).
- Compliance with the joint navigation rules: submission of flight plan, creation of flight diary, obligation to report accidents, rescue obligations
- Individual confirmation of operational management methods, etc.: in addition to taking basic safety assurance measures, it is necessary to conduct risk assessments appropriate to the operation mode and to prepare and comply with a flight manual incorporating risk mitigation measures based on the results of the assessments. Specific risk assessment methods were stipulated in the risk assessment guidelines by a public interest incorporated foundation called the Fukushima Innovation Coast Promotion Organization Fukushima Robot Test Field.<sup>13</sup>

### **(b) Category II Flights**

Following the Revised Civil Aeronautics Act, as a general rule, Category II Flights that satisfy all of the below conditions can be conducted without the need to obtain a permit or approval for each flight. However, even where a Certificate of Airworthiness (type 2 or

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<sup>11</sup> Article 132 (85) (1) of the Revised Civil Aeronautics Act and Article 236 (70) of the Revised Ordinance for Enforcement of the Civil Aeronautics Act.

<sup>12</sup> According to our anonymous telephone inquiry made of the MLIT, further guidelines will be shared on the Revised Civil Aeronautics Act.

<sup>13</sup> See "安全確保措置検討のための無人航空機の運航リスク評価ガイドライン" (Operational Risk Assessment Guidelines for Unmanned Aircraft for the Examination of Safety Assurance Measures) at the link below.  
<https://www.fipo.or.jp/robot/initiatives/guidelines>

above) or an Unmanned Aerial Vehicle Operator License (2nd class or higher) has not been obtained, it may still be possible to conduct a flight by obtaining a permit and approval for a specific flight as was the case under the old regime.

- Obtain a Certificate of Airworthiness (type 2 or above).
- Obtain an Unmanned Aerial Vehicle Operator License (2nd class or above).
- Comply with the joint navigation rules.

As an exception to the general rule explained above, where a flight falls under any of the below types, it will be necessary to obtain a permit and approval for each flight and it will also be necessary to obtain a Certificate of Airworthiness (type 2 or above) and an Unmanned Aerial Vehicle Operator License (2nd class or higher).

- Flights in the vicinity of an airport, etc., an emergency service area or above an altitude of 150 m
- Flights over event spaces
- Transportation of hazardous materials
- Dropping objects
- Flight of an object with an aggregate weight of 25 kg or more

The below table is a summary of the flight categories under the Revised Civil Aeronautics Act



	Is it a "Specified Flight"?	Do entry management measures apply?	Under the old regime	New procedures under the Revised Civil Aeronautics Act		
				Necessity of permit/approval (per flight)	Necessary approvals and licenses	
Category III	Yes.	No.	Not permitted. (with or without permits/approval)	Necessary	① Certificate of Airworthiness (type 1) ② Unmanned Aerial Vehicle Operator License (1st class) ③ Individual Confirmation of Operational Management Methods + Joint Navigation Rules	
Category II	II-A	Yes. <sup>14</sup>	Yes.	Permit/approval necessary (per flight)	Necessary irrespective of the permits and licenses listed in the right column ① If the approvals and licenses listed in the right column have been obtained, unnecessary to obtain permits and approvals (per flight), or ② If the approvals and licenses in the right column have not been obtained, permits and approvals are necessary (per flight)	① Certificate of Airworthiness (type 2 or above) ② Unmanned Aerial Vehicle Operator License (2nd class or above) ③ Joint Navigation Rules
	II-B	Yes. <sup>15</sup>				
Category I	No.	Not applicable.	Permit/approval not required (per flight).	Permit and approval not necessary (per flight)	None.	

Our Global Aviation Team represents aviation and drone clients all over the world, including the world's largest and most sophisticated airlines, the largest aircraft, engine and aerospace manufacturers, top aircraft lenders and lessors, leading MROs, the biggest social media and high-tech companies, private equity and hedge funds, real estate developers, airport sponsors, online travel and global distribution companies, corporate and private aircraft owners, companies involved with drones and stakeholders.

<sup>14</sup> In the event of any of the following.

- Flight in the vicinity of an airport etc., emergency service area, or above 150 m in altitude.
- Above an event space.
- Transportation of hazardous materials.
- Object drop.
- Flight of object with an aggregate weight of 25 kg or more.

<sup>15</sup> If the specific examples of Category II A do not apply and one of the following applies.

- Flight over a DID.
- Night flights.
- Flights beyond line of sight.
- Flights where distance between the people/property and the drone will be less than 30 m.