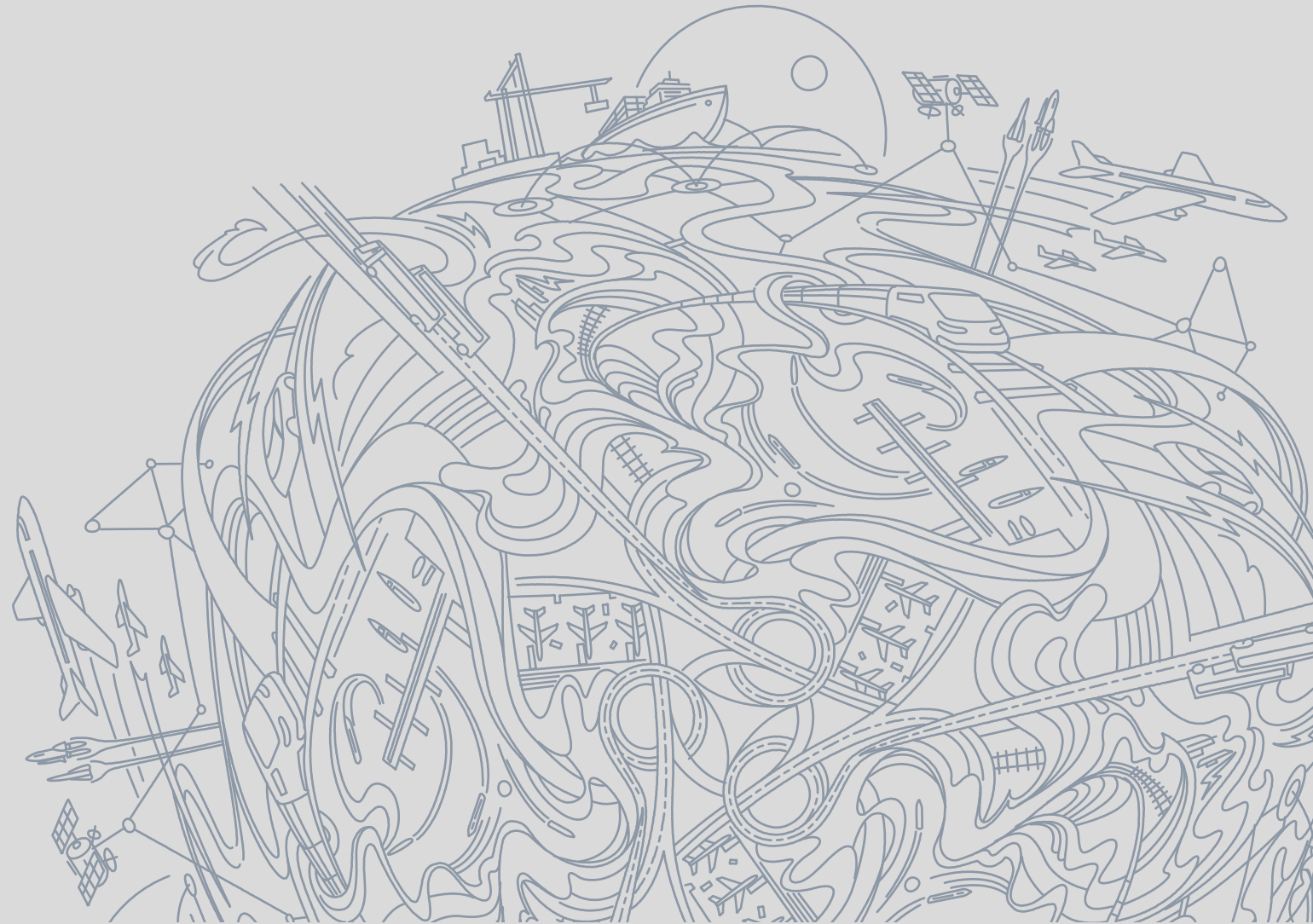


# DRONES UPDATE

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JUNE 2021

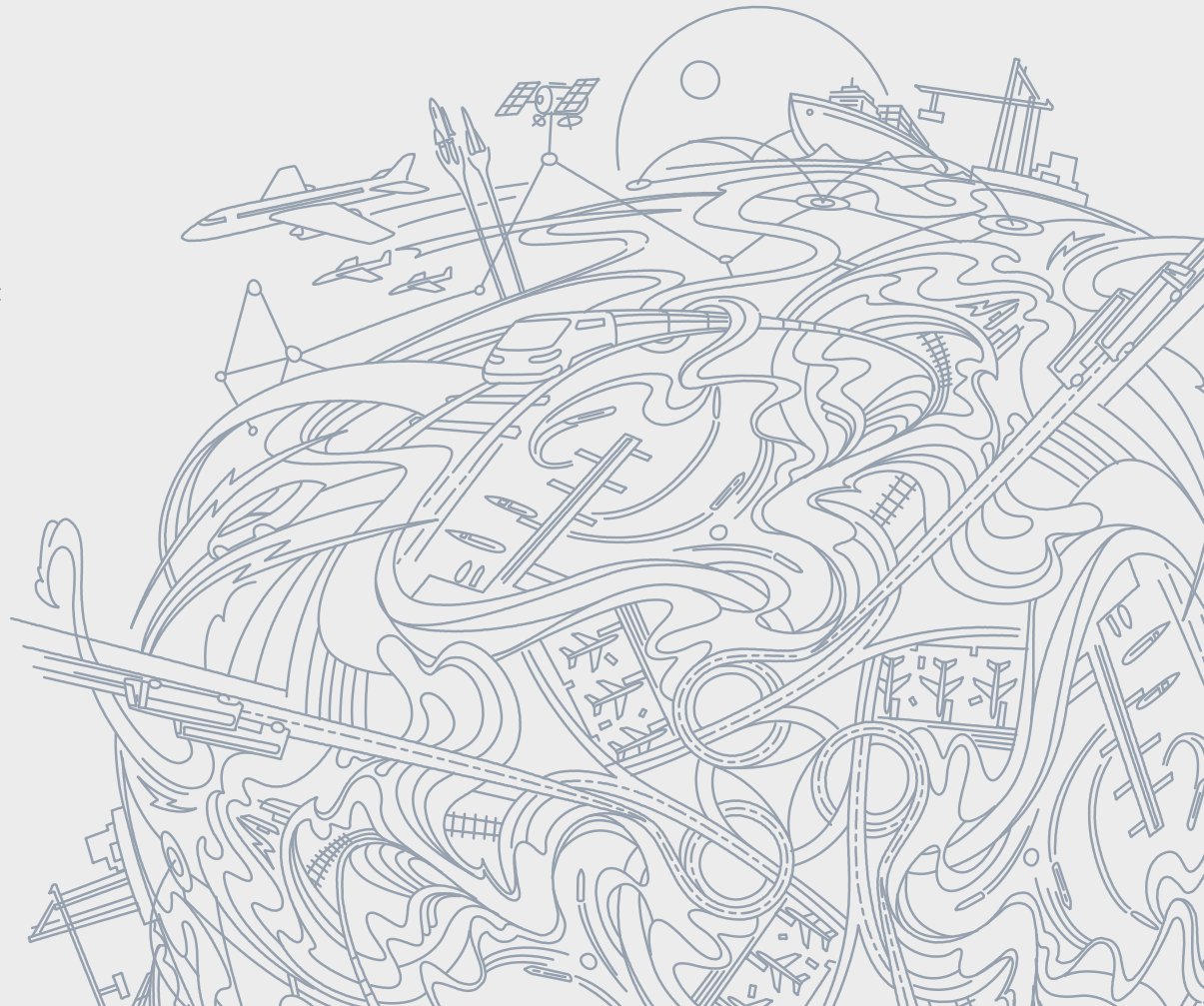


**THE COVID-19 PANDEMIC HAS RE-EMPHASISED THE POTENTIAL OF DRONES TO THE UK ECONOMY. THE ROYAL MAIL RECENTLY TRIALLED THE USE OF DRONES TO DELIVER COVID-19 TESTS, PPE AND REGULAR MAIL TO THE SCILLY ISLES. THIS BUILDS ON THE SUCCESS OF THE MAY 2020 TRIALS DELIVERING MEDICAL SUPPLIES TO THE ISLE OF WIGHT BY DRONE.**

The Government has made some significant changes to the regulatory framework for drones since our last [update](#).

**THESE INCLUDE:**

- new enforcement powers for the police under the Air Traffic Management and Unmanned Aircraft Act 2021 (April 2021)
- updated categories of drone operations for regulatory purposes and specific rules relating to drone product standards
- CAA Guidance on operational regulations (CAP 722)





## EU & UK REGIME

**DRONES OR UNMANNED AIRCRAFT SYSTEMS (UAS) OPERATED IN UK AIRSPACE ARE REGULATED BY THE UK CAA AND GOVERNED BY UK LAW. KEY LEGISLATION IS SET OUT IN THE AIR NAVIGATION ORDER 2016 (AS AMENDED) (ANO), THE AIR TRAFFIC MANAGEMENT AND UNMANNED AIRCRAFT ACT 2021 AND EU REGULATIONS APPLICABLE IN THE UK AS 'RETAINED EU LAW'. THESE LONG AWAITED EU DRONE REGULATIONS ENTERED INTO FORCE PRE-BREXIT AND THE ANO REGIME WAS AMENDED TO BE COMPATIBLE WITH THEM BY THE 2020 AMENDMENT ORDER.**

### THE RELEVANT EU REGULATIONS ARE:



Regulation (EU) 2018/1139 sets out common rules and relatively high-level principles for the design, production, maintenance and operation of UAS.



Commission Implementing Regulation (EU) 2019/974 sets out the rules and procedures for the operation of UAS.



Commission Delegated Regulation (EU) 2019/945 sets out the technical requirements for UAS in order for them to be traded on the market.

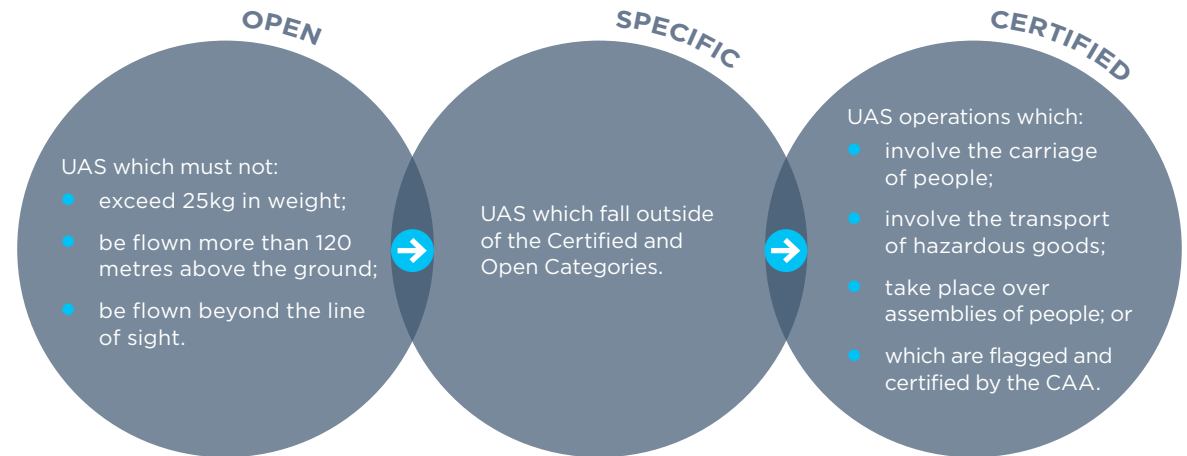
**SOME KEY FEATURES OF THE AMENDED REGIME IN THE UK ARE SET OUT ON THE FOLLOWING PAGE.**





# NEW OPERATIONAL CATEGORIES

**THE IMPLEMENTING REGULATION INTRODUCED THREE NEW OPERATIONAL CATEGORIES FOR UAS: (1) OPEN, (2) SPECIFIC AND (3) CERTIFIED, EACH WITH AN INCREASING LEVEL OF REGULATION.**



## 1. OPEN

UAS used in the open category do not require any formal authorisation from the CAA. This category has effectively superseded the ANO regime, with the key differences including an increase in the weight limit from 20kg under the ANO regime to 25kg and the removal of the requirement for CAA permission for commercial operations falling within this category. However, the open category has not removed the registration and competency requirements set out in ANO Regime (and now also the Implementing Regulation).

## 2. SPECIFIC

UAS used in the specific category will need to be authorised by the CAA, either by: submitting an operational risk assessment, obtaining a light UAS operator certificate, or a declaration of compliance with a CAA standard scenario. They will also be subject to certain requirements and/or restrictions during operations.

## 3. CERTIFIED

UAS used in the certified category will need to go through a similar certification process to manned aircraft, as they theoretically present equivalent risks to such aircraft.





## PRODUCT SPECIFICATIONS AND MARKETING REQUIREMENTS

THE DELEGATED REGULATION SETS OUT THE TECHNICAL REQUIREMENTS FOR UAS IN ORDER FOR THEM TO BE TRADED ON THE MARKET, INCLUDING:

### THE PRODUCT REQUIREMENTS

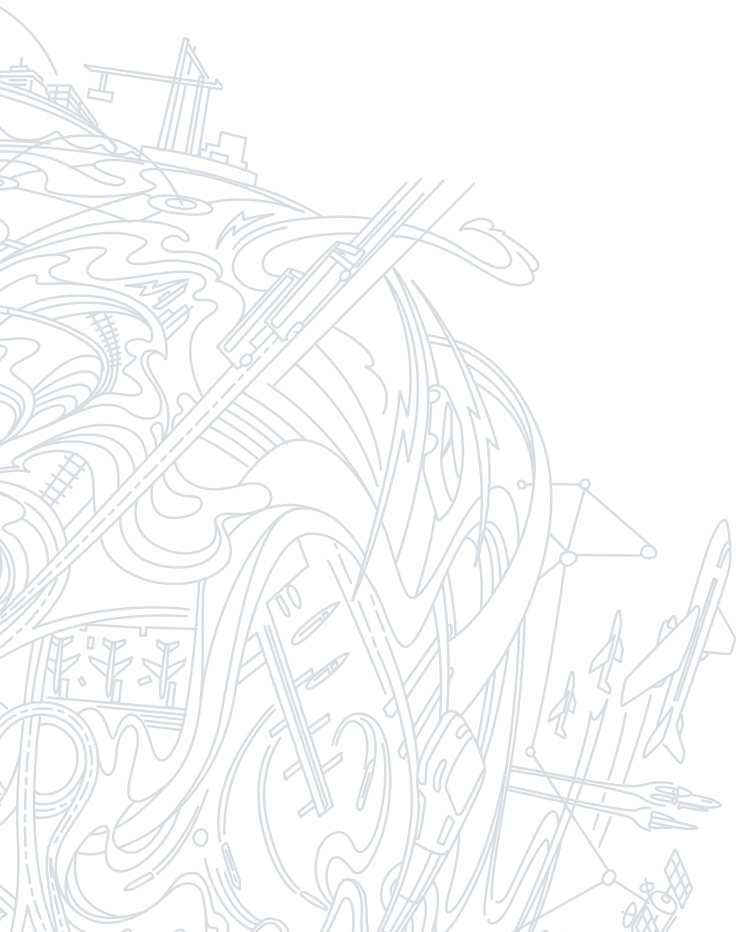
- The product requirements (including speed, weight, height, control and construction requirements) for UAS which are operated in the open category.

### THE ASSESSMENT PROCESS

- The assessment process for the product requirements for UAS marketed for use in the open category.

### CERTIFICATION REQUIREMENTS

- Certification requirements, primarily for the higher risk UAS that fall within the certified category, but also for UAS that fall within the specific category but require operational authorisation in order to mitigate certain risks.





# GUIDANCE: UAS OPERATIONS IN UK AIRSPACE - EIGHTH EDITION OF THE CAP 722

THE CAA HAS ISSUED CAP 722 GUIDANCE TO HELP DRONE DEVELOPERS, MANUFACTURERS AND OPERATORS TO CHOOSE THE CORRECT ROUTE TO FOLLOW (OPEN, SPECIFIC OR CERTIFIED) AND TO ENSURE THE REQUIRED STANDARDS AND PRACTICES ARE MET.

## INSURANCE:

This guidance also provides helpful clarity on the topic of insurance, re-iterating clearly that a condition of being authorised by the CAA to operate such UAS is that the UAS operators must have appropriate insurance coverage. Such coverage is outlined in Regulation (EC) No 785/2004<sup>1</sup> (the **EU Insurance Regulation**) and consequently the Civil Aviation (Insurance) Regulations 2005<sup>2</sup> (the **UK Insurance Regulation**) (together, the **Insurance Regulations**).

The level of insurance required is directly linked to the UAS maximum take-off mass (MTOM), and the only instance where such insurance is not required (according to the EU Insurance Regulation) is in the case of 'model aircraft' with an MTOM of less than 20kg. However, 'model aircraft' is not defined within the EU Insurance Regulation. The CAP 722 guidance helpfully clarifies that for the purposes of the EU Insurance Regulation, this should be taken to mean "any unmanned aircraft which is being used for sport or recreational purposes only." For other UAS weighing 20kg or more (including commercial operations), insurance cover must comply with the Insurance Regulations.

<sup>1</sup> Regulation (EC) No 785/2004 of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators

<sup>2</sup> The Civil Aviation (Insurance) Regulations 2005/1089



# NEW POLICE POWERS: AIR TRAFFIC MANAGEMENT AND UNMANNED AIRCRAFT ACT 2021

ON 29 APRIL 2021, THE AIR TRAFFIC MANAGEMENT AND UNMANNED AIRCRAFT BILL 2021 RECEIVED ROYAL ASSENT AND BECAME AN ACT. IT INTRODUCES SEVERAL NEW POLICE POWERS TO HELP ENFORCE THE RULES GOVERNING THE OPERATION OF UNMANNED AIRCRAFT SYSTEMS (UAS) IN THE UK.

## THESE NEW POWERS INCLUDE:



1. the power to require a person to land their UAS;



2. the power to stop and search people and vehicles;



3. the power to apply for a search warrant to enter and search premises;



4. the power to require a person to produce documentation of the permissions and/or exemptions required under the Air Navigation Order 2016, such as acknowledgements of competency and registration certificates, within seven days; and



5. the power to impose fixed penalty notices for certain minor offences.

The Act also extends the power under the Police Act 1997 enabling senior police officers to authorise interference with wireless telegraphy in the event of a serious crime. The Act confirms that a serious crime, for example, will include the failure to obtain permission for UAS flights near airports.





# GET IN TOUCH



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**PROBLEMS. POSSIBILITIES.  
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