

**SCOTTISH
NATURAL
HERITAGE**



**Faray & Holm of Faray
Special Area of Conservation**

Advice under Regulation 33(2)
of The Conservation (Natural Habitats, &c.) Regulations 1994
(as amended)

30 March 2006

About this Package:

Section 1 of this document provides a general introduction and Sections 2 and 3 fulfil Scottish Natural Heritage's duties under Regulation 33(2) of The Conservation (Natural Habitats, &c.) Regulations 1994 (Habitats Regulations) (as amended by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004). This requires that SNH advises other relevant authorities as to the conservation objectives of the site (see Section 2) and any operations which may cause deterioration of natural habitats or the habitats of species, or disturbance of species, in so far as such disturbance could be significant, for which the site has been designated (see Section 3).

Annexes A and B provide supplementary, non-statutory information. Annex A gives information on the sensitivity and vulnerability of the qualifying interest: 'Grey seal *Halichoerus grypus*'. Annex B gives some indication as to the extent, distribution, structure, function and processes that affect the qualifying interest. It should be noted that this is indicative and not definitive, and as more site information is gathered these sections may be updated.

Faray and Holm of Faray was designated by Scottish Ministers as a Special Area of Conservation (SAC) on 17th March 2005. This site is also referred to as a 'European site' (Regulation 10(1)). A 'European marine site' is a 'European site' which is wholly or in part marine (Regulation 2(1)) and is hereafter referred to as a marine SAC.

Although the following statutory information is for the benefit of relevant authorities (see below for explanation of their role), it can also be used by other competent authorities when assessing plans or projects.

1 Introduction

1.1 Background

The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004), commonly referred to as the Habitats Regulations, transpose the EC Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (Habitats Directive) into domestic legislation. Regulation 33(2) gives Scottish Natural Heritage a statutory responsibility to advise other relevant authorities as to the conservation objectives for marine SACs in Scotland, and any operations which may cause deterioration of natural habitats or the habitats of species, or disturbance of species for which the site has been designated.

This document presents the Regulation 33 advice, plus supporting information, for the Faray and Holm of Faray SAC to assist relevant and competent authorities, local interest groups and individuals in considering management of the site. This advice, plus supporting information, will also help to determine the scope and nature of any “appropriate assessment”, which the Habitats Directive requires to be undertaken for proposed plans and projects that are not connected to the conservation management of the site and are considered likely to have a significant effect. Where necessary Scottish Natural Heritage will also provide more detailed advice to relevant, and other competent, authorities to inform assessment of the implications of any such plans or projects.

1.2 Relevant and competent authorities

Within the context of a marine SAC, a relevant authority is a body or authority that has a function in relation to land or waters within or adjacent to the site (Regulation 5) and include: a nature conservation body; a local authority; water undertakers; a navigation authority; a harbour authority; a lighthouse authority; a river purification board (SEPA); a district salmon fishery board; and a local fisheries committee. All *relevant authorities* are *competent authorities*.

A competent authority is defined in Regulation 6 as “any Minister, government department, public or statutory undertaker, public body of any description or person holding a public office”. In the context of a plan or project, the *competent authority* is the authority with the power or duty to determine whether or not the proposal can proceed.

1.3 The role of relevant authorities

The Habitats Regulations require relevant authorities to exercise their functions so as to secure compliance with the Habitats Directive. A management scheme may be drawn up for each marine SAC by the relevant authorities as described under Regulation 34. For marine SACs with overlapping interests, a single management scheme may be developed.

Where a management scheme is in place the relevant authorities must ensure that all plans for the area integrate with it. Such plans may include shoreline

management plans, Sites of Special Scientific Interest (SSSI) management plans, local Biodiversity Action Plans (BAPs) and sustainable development strategies for estuaries. This must occur to ensure that only a single management scheme is produced through which all relevant authorities exercise their duties under the Habitats Regulations.

1.4 Responsibilities under other conservation designations

Other designations within or adjacent to the Faray and Holm of Faray marine SAC are: Faray and Holm of Faray SSSI only. The obligations of relevant, and other competent authorities and organisations under such designations and legislation are not affected by the advice contained in this document.

1.5 Conservation objectives

Section 2 of this document contains the conservation objectives for the Faray and Holm of Faray marine SAC, a site which consists entirely of a marine qualifying interest. The conservation objectives have been developed to ensure that the obligations of the Habitats Directive are met.

1.6 Advice as to operations

The operations, set out in Section 3, are those which SNH advise may cause deterioration of habitats of species, or disturbance of species, for which the site has been designated. This does not necessarily mean that the operations are *presently* ongoing or, if they are, that they are at levels incompatible with the conservation objectives.

1.7 Plans and projects

The Habitats Regulations require that, where an authority concludes that a development proposal is unconnected with the nature conservation management of a Natura site and is likely to have a significant effect on that site, it must undertake an appropriate assessment of the implications for the qualifying interest for which the area has been designated.

1.8 Review of Consents

Competent authorities are required by the Habitats Regulations to undertake a review of all consents and permissions for activities affecting the site as soon as reasonably practicable after it becomes a European site. This will have implications for discharge and other consents, which will need to be reviewed in the light of the conservation objectives.

2 Statutory advice given by SNH under Regulation 33(2) Conservation Objectives

2.1 Introduction

This section provides conservation objectives, which have been developed by SNH in agreement with the Scottish Executive and are to be provided to the relevant authorities in fulfilment of the requirements under Regulation 33(2) of The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004).

The conservation objectives ensure that the obligations of the Habitats Directive are met; that is, there should not be deterioration or significant disturbance of the qualifying interest. This will also ensure that the integrity of the site is maintained and that it makes a full contribution to achieving favourable conservation status for its qualifying interest.

The Faray and Holm of Faray marine SAC has been designated for the species 'Grey seal *Halichoerus grypus*', which is listed on Annex II of the Habitats Directive.

The Faray and Holm of Faray SAC consists entirely of a marine a qualifying interest.

The conservation objectives for the Faray and Holm of Faray marine SAC are as follows:

To avoid deterioration of the habitats of qualifying species (Grey seal <i>Halichoerus grypus</i>) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for the qualifying interest.
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To ensure for the qualifying species that the following are maintained in the long term:
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| <ul style="list-style-type: none"> • Population of the species as a viable component of the site • Distribution of the species within site • Distribution and extent of habitats supporting the species • Structure, function and supporting processes of habitats supporting the species • No significant disturbance of the species |
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3 Statutory advice given by SNH under Regulation 33(2) Operations

The following advice as to operations to be considered by relevant authorities is provided by SNH with respect to the Faray and Holm of Faray marine SAC in fulfilment of the requirements under Regulation 33(2)(b) of The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004). The advice identifies those operations, either on or affecting the SAC, which may cause deterioration of the marine natural habitats or the habitats of species, or disturbance of species, for which the site has been designated. These include operations that may not be currently affecting the Faray and Holm of Faray marine SAC.

Operations (in alphabetical order)

Coastal Development

Agriculture

Civil engineering

Fishing

Static gear: Creel / Pot fishing

Gathering / Harvesting

Intertidal collection of shellfish

Recreational Activities

Charter / recreational vessels

Scuba diving

Scientific Research

Scientific research

Annex A

Non-statutory advice given by SNH Sensitivity and Vulnerability of the Faray and Holm of Faray SAC 'Grey seal *Halichoerus grypus*' to activities listed in Section 3

The comments below are general and should not be considered to be definitive. They are made without prejudice to any comments SNH may provide or any assessment that may be required for specific proposals to be considered by a relevant authority. The level of any impact will depend on the location and intensity of the relevant activity. This advice is provided to assist and focus the relevant authorities in their consideration of the management of these operations.

Operations	Comments
Coastal Development	
Agriculture	Stock movements and boat transportation of sheep between the islands of Faray and Holm of Faray have the potential to cause disturbance to grey seals, particularly during breeding, and pupping (late September to late December) and moulting (January – February) periods.
Civil engineering	The construction and maintenance of structures, both within and adjacent to the sea, have the potential to cause disturbance during the breeding, pupping and moulting seasons. This activity also has the potential to cause loss or deterioration of the habitats upon which the grey seals depend during the same critical periods.
Fishing	
Static gear: Creel / Pot fishing	Creel / pot fishing has the potential to impact seals as they have been known to attempt to rob creels of their bait, consequently become entangled and subsequently drown.
Gathering / Harvesting	
Intertidal collection of shellfish	Collection of shellfish from intertidal areas has the potential to cause disturbance to seals (particularly during breeding, pupping and moulting seasons), mainly caused by intense and prolonged human presence.
Recreational Activities	
Charter / recreational vessels	Charter boats, especially on trips specifically designed to visit seal colonies, have the potential to disturb seals (particularly during the sensitive breeding, pupping and moulting periods) if appropriate guidelines for watching seals are not adhered to. Charter and recreational vessels may leave visitors to explore offshore islands or more remote areas that are close to seal haul out sites. Such human presence also has the potential to cause disturbance to seals if guidelines are not adhered to.
Scuba diving	Recreational diving in specific areas has the potential to cause disturbance to seals, particularly during the breeding, pupping and moulting seasons. The use of RHIBs and hard-boats associated with these activities also have the potential to cause disturbance to seals.
Scientific Research	
Scientific research	Research activities have the potential to cause disturbance to grey seals, particularly during the breeding, pupping and moulting seasons.

Annex B

Non-statutory Advice given by SNH Site account

Site description

The site consists of two islands, towards the north of the Orkney Islands archipelago, that together are of international conservation importance for the grey seal *Halichoerus grypus* species. The islands are rocky and fringed by moderately exposed old red sandstone reefs which extend into the adjacent sublittoral. Strong tides run through the sounds and around the headlands. There is little published marine biological information available for the site, although dense forests of laminarians, particularly *Laminaria hyperborea*, are known to occur on the shallow sublittoral rock.

Qualifying marine interest

Annex II Species: Grey seal *Halichoerus grypus*

This site holds the second largest breeding group of the grey seal *Halichoerus grypus* in the British Isles. The site produces about 3,300 pups each year, equivalent to a total population of about 12,000 animals. The Orkney Islands have a population of about 34,000 grey seals, representing 30% of the UK and 28% of the European population. The site can therefore be seen to support a significant proportion of the Orkney, UK and European populations.

The data above were used for site evaluation purposes. Since then the Seal Mammal Research Unit (SMRU) has carried out further surveys, which indicate that the population is stable.

The attributes of the grey seals habitat on the islands are the availability of suitable and undisturbed breeding, moulting and haul-out sites, the ease of access to the freshwater areas which are known to attract numbers of seals, and the access to rookery locations. The locations mostly used by the seals are Wara Geo and Scammalin Bay on the south east of Faray, Geo of Lackgwoy and Shammright Geo on the east coast of Faray, and Lavey sound (West Bight and East Bight) of the Holm of Faray. The availability of undisturbed shores and adjacent areas of sea around the islands, which facilitates adult social interactions, mating and acts as a nursery area are also important attributes of the grey seals habitat of the Faray and Holm of Faray European marine site. The near-shore habitats, particularly shallow bedrock reefs, are important foraging grounds for the seals. Grey seals are shy aquatic mammals that frequent remote and isolated coasts and offshore islands, and may desert a locality if subjected to disturbance.