

**SCOTTISH  
NATURAL  
HERITAGE**



**South-East Islay Skerries  
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: 'Common seal *Phoca vitulina*'. 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.

The South-east Islay Skerries was designated by Scottish Ministers as a Special Area of Conservation (SAC) on 17<sup>th</sup> 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 South-east Islay Skerries 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 South-east Islay Skerries marine SAC are: Ardmore, Kildalton & Callumkill Woodlands SSSI. 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 South-east Islay Skerries 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 South-east Islay Skerries marine SAC has been designated for the species 'Common seal *Phoca vitulina*', which is listed on Annex II of the Habitats Directive.

The South-east Islay Skerries SAC consists entirely of a marine qualifying interest.

### The conservation objectives for the South-east Islay Skerries marine SAC are as follows:

To avoid deterioration of the habitats of qualifying species ( <b>Common seal <i>Phoca vitulina</i></b> ) 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"> <li>• Population of the species as a viable component of the site</li> <li>• Distribution of the species within site</li> <li>• Distribution and extent of habitats supporting the species</li> <li>• Structure, function and supporting processes of habitats supporting the species</li> <li>• No significant disturbance of the species</li> </ul> |
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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 South-east Islay Skerries 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 South-east Islay Skerries marine SAC.

#### **Operations (in alphabetical order)**

##### **Aquaculture**

Finfish farming

Shellfish farming

##### **Coastal Development**

Civil engineering

##### **Fishing**

Static gear: Creel / Pot fishing

##### **Marine Traffic**

Commercial vessels

##### **Recreational Activities**

Charter / recreational vessels

Other recreational activities

Scuba diving

##### **Scientific Research**

Scientific research

## Annex A

### Non-statutory advice given by SNH Sensitivity and Vulnerability of the South-east Islay Skerries SAC 'Common seal *Phoca vitulina*' 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
<b>Aquaculture</b>	
Finfish farming	<p>Finfish farming has the potential to cause disturbance, injury or mortality to seals through entanglement in anti-predator nets or nets used to re-capture escaped fish, shooting (legal only outwith the close season) to protect fish farm stock from seal damage, or using acoustic deterrent devices (ADDs). Chemical treatments associated with finfish farming have the potential to adversely affect seals.</p> <p>Boat activity associated with finfish farming has the potential to cause disturbance to seals, particularly during breeding and pupping (late May to end June) and moulting (August) seasons.</p>
Shellfish farming	<p>Shellfish farming has the potential to cause disturbance, injury or mortality to seals through entanglement in anti-predator nets. Use of ADDs or other predator control methods (e.g. sonic canon, boat chasing) to prevent grazing by eiders has the potential to cause disturbance to seals.</p> <p>Boat activity associated with shellfish farming has the potential to cause disturbance to seals, particularly during breeding, pupping and moulting seasons.</p>
<b>Coastal Development</b>	
Civil engineering	<p>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 seals depend during the same critical periods.</p>
<b>Fishing</b>	
Static gear: Creel / Pot fishing	<p>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.</p>

<b>Marine Traffic</b>	
Commercial vessels	<p>Commercial ferry services have the potential to cause disturbance to seals if these vessels pass and / or moor close to the seal haul out areas, particularly during the breeding, pupping and moulting seasons.</p> <p>Oil spills have the potential to cause damage to seal haul outs. Seals generally leave an area in which oil is spilled but a small number of individuals may suffer from respiratory problems and die as a result of the spillage of a large amount of oil. Oil tankers do not generally pass through the coastal waters of South-east Islay but there is always a risk that a fishing boat or container ship may run aground in the area spilling diesel and fuel oil. Local authority oil spill contingency plans should take into account the qualifying interest of South-east Islay skerries and the importance of the marine SAC, particularly during the seal's breeding, pupping and moulting seasons, should such incidents occur.</p>
<b>Recreational Activities</b>	
Charter / recreational vessels	<p>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.</p> <p>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.</p>
Other recreational activities	<p>Land-based visitors have the potential to cause disturbance to seals, and deterioration to their associated habitats, if guidelines for watching seals are not adhered to. This is particularly so if visits are unmanaged, in large groups or with dogs, especially during the breeding, pupping or moulting seasons.</p> <p>Wildlife watching has the potential to cause disturbance to seals if undertaken during the breeding, pupping and moulting seasons and close to haul out areas. This disturbance would be caused by prolonged human presence.</p>
Scuba diving	<p>Recreational diving and snorkelling 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.</p>
<b>Scientific Research</b>	
Scientific research	<p>Research activities have the potential to cause disturbance to seals, particularly during the breeding, pupping and moulting seasons.</p>

## Annex B

### Non-statutory Advice given by SNH Site account

#### Site description

Islay, the most southerly of the main Inner Hebridean islands, is separated from neighbouring Jura by the narrow Sound of Islay. The island is dissected by two large sandy lochs, Gruinart and Indaal, and the coastline is characterised by a complex of dunes, cliffs, gullies and rock platforms. South-east Islay Skerries European marine site encompasses offshore islands, skerries and the south-eastern mainland coast between the eastern-most point of Lagavulin Bay and Ardmore Point.

The south-east coast of Islay is remarkable for its unique coastal topography of ridges parallel to the shore, its shallowness and its proximity to an amphidromic point producing very small tidal ranges. The system of ridges parallel to the shore produce some very sheltered areas which are particularly favoured by the common seal colony. The maximum depth at the site is 10 m and the mean spring tidal range is 0.6 m. Consequently, the sublittoral communities and habitats that occur throughout the site have typically developed in rather sheltered conditions with little exposure to a significant tidal range.

#### Qualifying marine interest

##### Annex II Species: Common seal *Phoca vitulina*

Common seals are found in a wide variety of coastal habitats throughout their range. On the west coast of Scotland, common seals habitually utilise rocky shores, islets and skerries as haul-out areas to rest, pup and moult. The skerries, islets and undisturbed mainland shores in south-east Islay have consistently supported around 600 common seals, representing approximately 2% of the UK and 1% of the EU populations of the species.

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

The seals are usually scattered along seaweed covered tidal ledges in small groups of around fifty animals. Adult common seals can remain very faithful to particular haul-out areas, typically moving around the same group of favoured locations over a number of years. However, the use of particular haul-out areas can vary according to the annual cycle and local weather conditions. South-east Islay Skerries European marine site holds one of the largest discrete groups of common seals in south-west Scotland and the colony is representative of the Inner Hebridean and west coast population. Large colonies are important in maintaining overall population size and are significant as sources of emigration to smaller or newly established groups.