1988 No. 495 (S.57)

AGRICULTURE

The Environmentally Sensitive Areas (Machair of the Uists and Benbecula, Barra and Vatersay) Designation Order 1988

Made - - - -	*10th March 1988*
Laid before Parliament	*24th March 1988*
Coming into force	*14th April 1988*

Whereas, as referred to in section 18(1) of the Agriculture Act 1986(a), it appears to the Secretary of State that it is particularly desirable–

(1) to conserve and enhance the natural beauty of the area referred to in article 3 of the following Order;

(2) to conserve the flora and fauna and geological and physiographical features of that area; and

(3) to protect buildings and other objects of historic interest in that area;

And whereas, as referred to in the said section 18(1) of the said Act, it appears that the maintenance and adoption of the agricultural methods specified in the Schedule to the following Order is likely to facilitate such conservation, enhancement and protection;

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by section 18(1), (4) and (11) of the said Act, and of all other powers enabling him in that behalf, with the consent of the Treasury and after consultation with the Countryside Commission for Scotland and the Nature Conservancy Council as to the inclusion of the area referred to in article 3 of the following Order and the features for which conservation, enhancement and protection are desirable, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Environmentally Sensitive Areas (Machair of the Uists and Benbecula, Barra and Vatersay) Designation Order 1988 and shall come into force on 14th April 1988.

Interpretation

2.—(1) In this Order–

"agreement" means an agreement under section 18(3) of the Agriculture Act 1986 as regards land in the area designated by article 3;

"apportioned machair" means common machair land which has been apportioned by the Crofters Commission for the exclusive use of a particular crofter under the provisions of section 27(7) of the Crofters (Scotland) Act 1955;(b)

"common grazings committee" means a committee appointed under section 24(1) or (3) of the Crofters (Scotland) Act 1955;

(a) 1986 c.49.
(b) 1955 c.21; section 27(7) was amended by the Crofting Reform (Scotland) Act 1976 (c.21), section 16(5).

"conservation plan" means a layout plan of the land included in the agreement and an attached statement identifying relevant conservation features and setting out, as appropriate, details of how the requirements in the agreement will be implemented;

"cow" means a female bovine animal which has calved at least twice;

"croft" has the same meaning as in section 3(1) of the Crofters (Scotland) Act 1955(a);

"farmer" means a person who has an interest in agricultural land in the area designated by article 3 and who has entered into an agreement with the Secretary of State;

"inbye land" means enclosed fields near the croft or farm buildings;

"land based improvement works" means sub-soiling, drainage, cultivation, fertilising and reseeding;

"livestock unit" means–

(a) 1 cow, or

(b) 1.25 bovine animals (other than cows) over two years old, or

(c) 1.6 bovine animals (other than cows) from one year old to two years old inclusive, or

(d) 2.5 bovine animals less than one year old, or

(e) 6.66 sheep;

"machair" means sandy plains formed when calcareous shell-sand has been blown over glacial deposits and peat;

"rotational pattern of cultivation" means a pattern of temporary and changing cultivation of unfenced strips within the wider area of the common machair;

"seasonal grazing period" means a period of grazing of the common machair during late autumn, winter and early spring between dates determined from time to time by the common grazings committee in accordance with the grazings regulations of the appropriate township;

"traditional share of the common machair" means that portion of the common machair which has been allocated over time to individual crofters or farmers for cropping purposes by the common grazings committee;

"under-sowing" means the sowing of a cereal crop with a grass seed mixture for grazing and cultivation in subsequent seasons;

"unimproved machair" means machair which has not been re-seeded and is still used in a rotational pattern of cultivation;

"wetland" means any ground which is normally saturated with water.

(2) Any reference in this Order to a numbered article shall be construed as a reference to the article bearing that number in this Order.

Designation of environmentally sensitive area

3. There is hereby designated as an environmentally sensitive area that area of land in the Western Isles known as the machair of the Uists and Benbecula, Barra and Vatersay and which is shown delineated red and coloured pink on the map marked "Environmentally Sensitive Area - Machair of the Uists and Benbecula, Barra and Vatersay" dated 2nd March 1988 and signed on behalf of the Secretary of State for Scotland and deposited at the offices of the Department of Agriculture and Fisheries for Scotland, Chesser House, Gorgie Road, Edinburgh.

Requirements to be included in agreement

4.—(1) An agreement with a crofter or farmer regarding his traditional share of the common machair shall include the requirements specified in Part I of the Schedule to this Order.

(2) An agreement with a common grazings committee regarding land in the common machair shall include the requirements specified in Part II of the Schedule to this Order.

(3) An agreement with a crofter or farmer regarding his inbye land or apportioned machair shall include the requirements specified in Part III of the Schedule to this Order.

(a) Section 3(1) was amended by the Crofters (Scotland) Act 1961 (c.58), Schedule 1, Part II, paragraph 9.

Provisions as to breach of requirements to be included in agreement

5. An agreement shall include provision that–

(a) in the event of a breach by the crofter, farmer or common grazings committee of the requirements referred to in article 4, the Secretary of State may give the crofter, farmer or common grazings committee notice in writing terminating the agreement forthwith and may recover from the crofter, farmer or common grazings committee an amount equivalent to the payments made by the Secretary of State under the agreement or such part thereof as the Secretary of State may specify; and

(b) any question arising under an agreement as to whether there has been a breach of any of the requirements referred to in article 4 shall be referred to and determined by a single arbiter to be agreed between the parties, or in default of agreement to be appointed by the Chairman for the time being of the Scottish Branch of the Royal Institution of Chartered Surveyors.

Rates of payment under agreement

6.—(1) Subject to paragraphs (2) and (3) below, payments made by the Secretary of State under an agreement with any crofter or farmer regarding his traditional share of the common machair, inbye land or apportioned machair shall be at the following rates:–

(a) £50 per annum per hectare for the first 6 hectares of land;

(b) £40 per annum per hectare for the next 4 hectares of land;

(c) £30 per annum per hectare for the next 10 hectares of land;

(d) £25 per annum per hectare for any remaining land.

(2) The rates of payment under paragraph (1) above shall be subject to a maximum rate of £1,000 per annum for any one crofter or farmer.

(3) Payments to a crofter or farmer with less than 6 hectares of land shall be at the rate of £300 per annum.

7.—(1) Subject to paragraphs (2) and (3) below, payments made by the Secretary of State under an agreement with a common grazings committee regarding the common machair shall be at the following rates:–

(a) £10 per annum per hectare for the first 25 hectares of land;

(b) £5 per annum per hectare for any remaining land.

(2) The rates of payment under paragraph (1) above shall be subject to a maximum rate of £1,000 per annum for any one common grazings committee.

(3) Payments to a common grazings committee with less than 10 hectares of land shall be at the rate of £250 per annum.

8. Where an agreement with a crofter or farmer regarding his inbye land or apportioned machair identifies in the conservation plan expenditure required to undertake additional agricultural operations as specified in paragraph 12 of Part III of the Schedule to this Order, the Secretary of State shall make additional payments according to the agricultural operations to be carried out. Such payments shall be either at a rate to be determined by the Secretary of State, up to a maximum rate of £100 per annum for each hectare of land to which the agreement relates, or at the rate of £1,000 per annum per crofter or farmer, whichever is the lower.

9. Where an agreement with a common grazings committee identifies in the conservation plan expenditure required to undertake additional agricultural operations as specified in paragraph 6 of Part II of the Schedule to this Order, the Secretary of State shall make additional payments according to the agricultural operations to be carried out. Such payments shall be either at a rate to be determined by the Secretary of State, up to a maximum rate of £100 per annum for each hectare of land to which the agreement relates, or at the rate of £1,000 per annum for each common grazings committee, whichever is the lower.

Sanderson of Bowden
Minister of State,
Scottish Office,

New St Andrew's House, Edinburgh
2nd March 1988

We consent,

Peter Lloyd
Michael Neubert
Two of the Lords Commissioners
of Her Majesty's Treasury

10th March 1988

SCHEDULE

Article 4

PART I

REQUIREMENTS TO BE INCLUDED IN AN AGREEMENT WITH A CROFTER OR FARMER REGARDING HIS TRADITIONAL SHARE OF THE COMMON MACHAIR

1. The crofter or farmer shall not apply pesticides or herbicides, except to control spear-thistle *(cirsium vulgare)*, creeping or field thistle *(cirsium arvense)*, curled dock *(rumex crispus)*, broadleaved dock *(rumex obtusifolius)*, ragwort *(senecio jacobaea)* or charlock *(sinapsis arvensis)*. Any herbicides used must be applied by weed wiper, spot treatment or hand spraying only.

2. The crofter or farmer shall ensure that no pollution due to the escape of silage effluent, sheep dip or other pollutant occurs.

3. The crofter or farmer shall ensure in farming the land that he does not damage or destroy any feature of historic interest.

4. The crofter or farmer shall obtain prior approval in writing from the Secretary of State before commencing the construction or significant re-alignment or improvement of vehicular tracks.

5. The crofter or farmer shall use a grass seeds mix specified by the Secretary of State when undersowing or creating permanent pasture.

6. The crofter or farmer shall apply to the cropped area of the machair at least one dressing per annum of seaweed, dung or peat, at the minimum rate of 40 tons per hectare for seaweed and 25 tons per hectare for dung or peat.

7. The crofter or farmer shall retain a rotational pattern of cultivation on the unimproved machair.

8. The crofter or farmer shall not cut hay or silage before 14th July in any year or before any other date which may be specified by the Secretary of State.

9. The crofter or farmer shall obtain prior approval in writing from the Secretary of State before carrying out land based improvements or fencing on the machair.

PART II

REQUIREMENTS TO BE INCLUDED IN AN AGREEMENT WITH A COMMON GRAZINGS COMMITTEE REGARDING LAND IN THE COMMON MACHAIR

1. The common grazings committee shall not graze the machair with cattle or sheep during the seaonal grazing period at an annual average stocking rate exceeding 0.5 livestock units per hectare.

2. The common grazings committee shall ensure that no pollution results from communally controlled activities.

3. The common grazings committee shall ensure in farming the land that they do not damage or destroy any feature of historic interest.

4. The common grazings committee shall obtain prior approval in writing from the Secretary of State before commencing the construction or significant re-alignment or improvement of vehicular tracks.

5. The common grazings committee shall obtain prior approval in writing from the Secretary of State before carrying out land based improvements or fencing.

6. The common grazings committee shall prepare and agree with the Secretary of State a conservation plan for the common machair in the township. The plan shall contain details of the following additional agricultural operations to be carried out:–

(a) any dune grass planting or other anti-erosion measures necessary to protect the machair;

(b) a programme of periodic maintenance of the existing watercourses;

(c) any measures necessary to preserve or protect particular wetland areas.

PART III

REQUIREMENTS TO BE INCLUDED IN AN AGREEMENT WITH A CROFTER OR FARMER REGARDING HIS INBYE LAND OR APPORTIONED MACHAIR

1. The crofter or farmer shall not apply pesticides or herbicides to the machair, except to control spear-thistle *(cirsium vulgare)*, creeping or field thistle *(cirsium arvense)*, curled dock *(rumex crispus)*, broadleaved dock *(rumex obtusifolius)*, ragwort *(senecio jacobaea)* or charlock *(sinapsis arvensis)*. Any herbicides used must be applied by weed wiper, spot treatment or hand spraying only.

2. The crofter or farmer shall ensure that no pollution due to the escape of silage effluent, sheep dip or other pollutant occurs.

3. The crofter or farmer shall ensure in farming the land that he does not damage or destroy any feature of historic interest.

4. The crofter or farmer shall obtain prior approval in writing from the Secretary of State before commencing the construction or significant re-alignment or improvement of vehicular tracks.

5. The crofter or farmer shall use a grass seeds mix specified by the Secretary of State when undersowing or creating permanent pasture on the machair.

6. The crofter or farmer shall apply to the cropped area of the unimproved machair at least one dressing per annum of seaweed, dung or peat, at the minimum rate of 40 tons per hectare for seaweed and 25 tons per hectare for dung or peat.

7. The crofter or farmer shall retain a rotational pattern of cultivation on the unimproved machair.

8. The crofter or farmer shall not cut hay or silage before 14th July in any year or before any other date which may be specified by the Secretary of State.

9. The crofter or farmer shall obtain prior approval in writing from the Secretary of State before carrying out land based improvements or fencing on the machair.

10. The crofter or farmer shall not graze the unimproved machair with cattle or sheep at an annual average stocking rate exceeding 0.5 livestock units per hectare.

11. The crofter or farmer shall carry out, where appropriate, an agreed programme for the mechanical control of iris (*iris pseudocorus*).

12. The crofter or farmer shall prepare and agree with the Secretary of State a conservation plan for the land on his croft or farm lying within the boundaries of the designated area. The plan shall contain details of the following additional agricultural operations to be carried out:–

(a) any dune grass planting or other anti-erosion measures necessary to protect the machair;

(b) a programme of periodic maintenance of the existing watercourses;

(c) any measures necessary to preserve or protect particular wetland areas.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order designates as an environmentally sensitive area areas of land forming parts of the Uists, Benbecula, Barra and Vatersay in the Western Isles (article 3). Those areas are designated for the purposes of conserving, protecting and enhancing the environmental features of the areas by the maintenance or adoption of particular agricultural methods.

The map annexed to and forming part of this note gives a general guide to the areas affected by this Order. The detailed map showing the areas of the Uists, Benbecula, Barra and Vatersay which are designated can be inspected during normal office hours at the offices of the Department of Agriculture and Fisheries for Scotland, Chesser House, Gorgie Road, Edinburgh.

The Secretary of State may enter into a management agreement with any person having an interest in agricultural land in a designated area and the Order specifies the requirements as to agricultural practices, methods and operations which must be included in such an agreement (article 4 and Schedule).

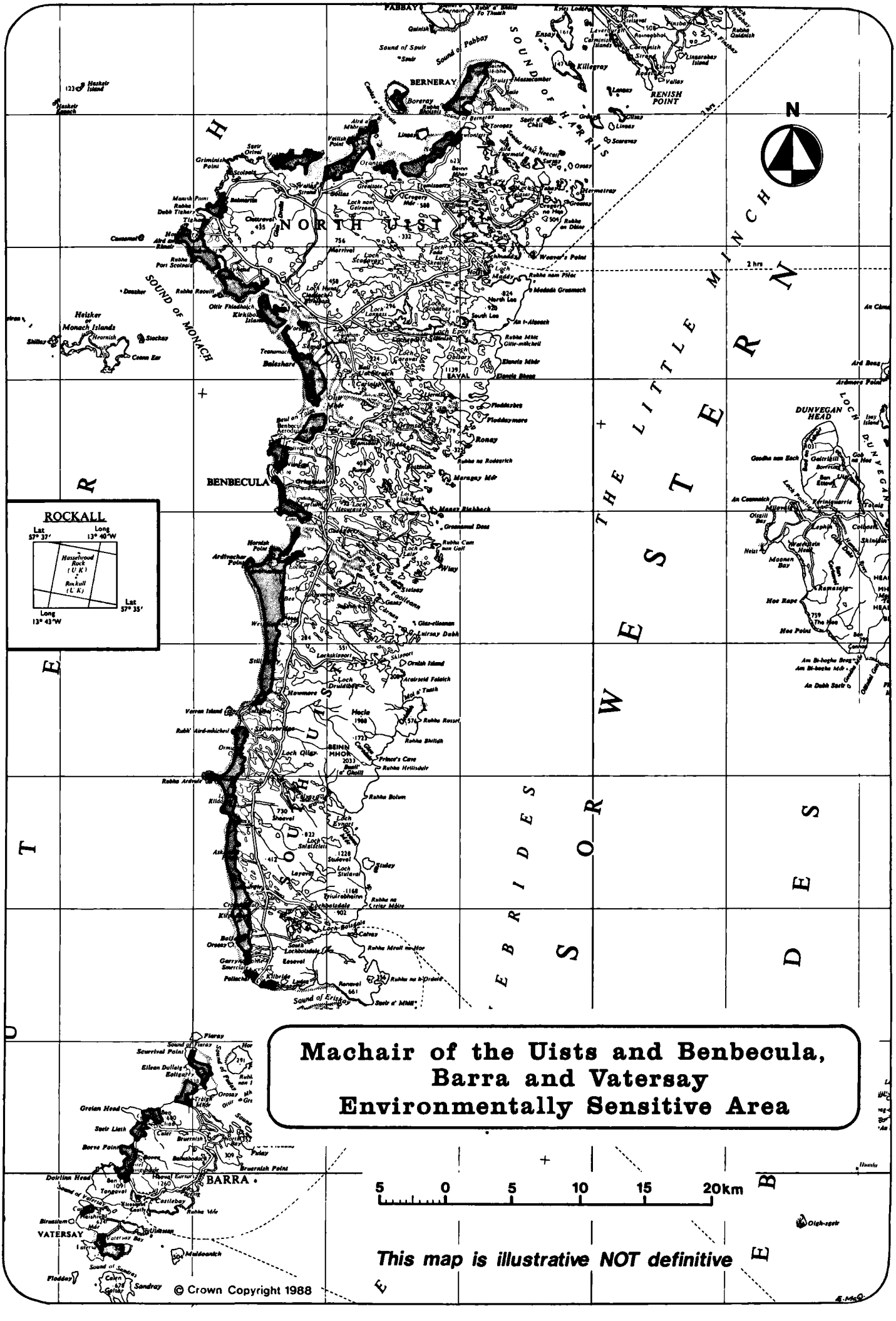
In the event of a breach of the specified requirements, the Secretary of State may terminate the agreement and recover sums paid under the agreement (article 5(a)). Any questions arising as to whether a breach of such requirements has occurred may be determined by arbitration (article 5(b)).

Payments made by the Secretary of State under an agreement are prescribed according to the nature of the land covered by the agreement and whether any additional agricultural operations require to be carried out (articles 6, 7, 8, and 9).

£1.60

ISBN 0 11 086495 6

Printed in the United Kingdom by Her Majesty's Stationery Office at Edinburgh Press
800 WO 0497 C9 3/88 452/4 19593 PS 7944009 (255659)


PABBAY
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NORTH UIST
SOUND OF MONACH
Heisker or Monach Islands
BENBECULA
THE LITTLE MINCH
WESTERN ISLES
DUNVEGAN HEAD
LOCH DUNVEGAN
SOUTH UIST
BEINN MHOR
Hecla
EAVAL
BARRA
VATERSAY
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Killegray
Lingay
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Ludag
Daliburgh
Howmore
Loch Druidibeg
Loch Bee
Stilligarry
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Sandray
Pabbay
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Barra Head
Flannan Islands
Sula Sgeir
North Rona
Sula Stack
Haskeir Island
Haskeir Rocks
Monach Islands
Shillay
Stockay
Ceann Ear
Hirsta
Stac an Armin
Boreray
Stac Lee
Stac Biorach
Gannet Rock
Sula Stack
ROCKALL
Lat 57° 37'
Long 13° 40'W
Hasselwood Rock (UK)
Rockall (UK)
Lat 57° 35'
Long 13° 43'W
2 hrs
N
5 0 5 10 15 20km
Machair of the Uists and Benbecula, Barra and Vatersay Environmentally Sensitive Area
This map is illustrative NOT definitive
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