



THEME No 1.

**OBJECTS, SITES AND
MONUMENTS
PROTECTION**

CARD No 2.

**NATURAL ENVIRONMENT
GENERAL PROVISIONS**

**ENVIRONNEMENTAL CODE - BOOK 1 – GENERAL PROVISIONS
RELATING TO NATURAL ENVIRONMENT
(Former proceeding no 95-257 AT of 14 December 1995 regarding
nature protection)**

Article D.100-1: Definitions

(Ruling No 95-257 AT of 14 December 1995)

What it means in this code:

- *Biodiversity*: variety and variability of living organisms and ecological complex they are part of: It includes diversity within and between species as well as those of ecosystems and landscapes.



- *Ecosystem*: dynamic complex made up of plants, animals, micro-organisms and their non living environment that, with their interaction, make up a functional unit.
- *Ex situ Conservation*: conservation of elements constituting biodiversity out of their natural environment.
- *Specimen*: any animal or plant, living or dead, as well as any part or product from the animal or the plant.
- *Species*: fundamental taxonomic unit in the classification of the living world, that may apply to a specie in the strict sense of the world but also to a variety, race or any lower taxon or a gender, a family or any other upper taxon.
- *Endangered species*: a species, which is likely to disappear unless the circumstances threatening its survival and reproduction improve.
- *Vulnerable species*: a species, which is likely to become endangered unless the circumstances threatening its survival and reproduction improve.
- *Rare species*: a species that is very uncommon or scarce, currently neither “endangered” nor “vulnerable”, but at risk.
- *Species of particular interest*: a species that is not threatened elsewhere, but which future remains uncertain because of their number diminishing as well as their habitats. Being in French Polynesia is not important for its survival, but it enriches the local biodiversity.
- *Habitat*: location or type of site in which an organism or population exists in their natural environment.
- *Restoration*: path consisting in abandoning or in reasoned control of human pressure, in order to stop degradation of an ecosystem and bring it back to its former condition.
- *Rehabilitation*: redirect an ecosystem on its good dynamic path and redress a good level of resilience. Its main purpose is to repair damaged or blocked functions of an ecosystem.
- *Landscape*: structured part of the observable territory globally from a given point, including a set of geomorphologic and maybe hydrological natural elements, plant and/or of artificial elements related to human action.
- *Protected area*: any geographically delimited area appointed or regulated and managed in order to achieve specific conservation objectives.

Article D.100-2: General principles

Provisions of this code define environmental issues in addition to existing specific regulations.

Natural areas, resources and environment, sites and landscapes, animal and plant species, biodiversity and biological balances to which they are part of, belong to the common heritage of the territory. They have a scientific, ecologic, genetic, social, economic, ethic, cultural, educative, recreational or aesthetic interest.

Their protection, land improvement, restoration, rehabilitation and management are of general interest and contribute to achieve sustainable development.



When there is a threat of sensible reduction or loss of biodiversity, lack of scientific certainty should not be put forward postpone measures to avoid danger or reduce its results.

It is our duty to see to safeguarding and contribute to environmental protection. Public and private persons, in any activity, must comply with the same requirements.

TITLE 1 – PROTECTED NATURAL AREAS

CHAPITRE 1 – GENERAL PROVISIONS REGARDING LISTING OF AREAS

SECTION 1 – Listing principes

Article D.111-1:

Some parts of the territory may be listed as protected natural areas aiming at protecting and maintaining biodiversity and associated natural and cultural resources.

Sub-section 1: Listing categories

Article D.111-2:

Protected natural areas are listed in six categories according to their management objectives:

I - strict natural reserve / natural area:

la – strict natural area: protected area mainly managed for scientific purposes.

lb – natural area: protected area mainly managed for wild resources protection.

II – territorial park: protected area mainly managed for ecosystems protection and recreational purposes.

III- natural monument: protected area mainly managed to preserve specific natural elements.

IV – habitats or species management area: protected area mainly managed to conserve habitats and species, with directed intervention at management level.

V- protected landscape: protected area mainly managed to insure landscape conservation and/or entertainment purposes.



VI- managed natural resources protected area: protected area mainly managed for sustainable use of natural ecosystems.

For each protected natural area, various objectives may be classified by priority order according to recognised international criteria such as those listed in the following table.

Management objectives	Ia	Ib	II	III	IV	V	VI
Scientific research	1	3	2	2	2	2	3
Endangered, rare, vulnerable or of particular interest species protection	2	1	2	3	3	-	2
Species and genetic diversity preservation	1	2	1	1	1	2	1
Ecological functions maintenance	2	1	1	-	1	2	1
Particular natural/cultural elements protection	-	-	2	1	3	1	3
Tourism and recreation	-	3	3	-	2	2	1
Natural ecosystems resources sustainable uses							
Cultural/traditional particularities' preservation	-	-	-	-	-	1	2

Legend

1: main objective

2: secondary objective

3: potentially achievable objective – non achievable

Sub-section 2: Listing procedure

Article D.111-3:

When the property, public or private, belongs to the territory, listing decision is taken by an order of the council of ministers after consultation of the concerned communes, territorial assembly and natural sites and monuments committee.

When the property does not belong to the territory, listing decision is taken by an order of the council of ministers following notice delivered to owners, consultation of the concerned communes and natural sites and monuments committee.

In any case, a public enquiry is conducted as for development document.

Listing decision is taken within fifteen months from, as the case may be, the order taken by the council of ministers submitting the listing project to the advice of the territorial assembly or of notification to owners.

Article D.111-4 (Listing act)



The listing act may submit to a particular regime and, if necessary, prohibit within the protected natural area any action likely to affect the natural development of fauna and flora and in general, to alter the character of the so-called area, especially, hunting and fishing, picking and collecting, farming, forest and pastoral grazing activities, industries, mines, advertisements and commercial activities, public or private works operations, extractions, water use, public circulation, whatever the medium used.

The listing act, appoints individuals or legal persons or the structure in charge of the management and administration of the protected area.

The listing act is set up according to the interest of maintenance of existing traditional activities as long as they comply with interests defined in article 3 of these proceedings

Article D.111-5 (Promulgation of the listing act)

Administrative authority promulgates the listing act. This promulgation is free of charge.

This act is sent to concerned mayors for posting in city halls within the period provided for in article D.111-9. It is notified to concerned owners.

For the purposes of articles 111-3, 111-4 and 111-8, for lack of identification of owners, notification to the mayor is valid. The mayor is to post it at the city hall, at the listing area and if necessary delivers it to the occupier.

Article D.111-6 (Amendments to the listing act)

Subject to management objectives provided for in the listing act, the council of ministers may amend with an order and following approval opinion of the natural sites and monuments committee, the particular regime of a protected natural area.

Article D.111-7 (Voluntary protected natural areas)

In order to achieve listing objectives provided for in article 3 of these proceedings, owners may ask that their private properties be recognised voluntary protected natural area. The administrative authority proceeds to the listing after consultation of concerned communes and of the natural monuments and sites committee.

An order from the council of ministers makes clear duration of the agreement, its terms and conditions, measures of conservation these areas benefit as well as obligations of the owner and especially in site guarding and legal liability.

SECTION 2 – Consequences of the listing



Article D.111-8 (Measures of conservation)

As from the day the administrative authority submits to the territorial assembly or notifies to the concerned owners its intent to establish a protected area, no amendment may be made to the schedule of condition of property or aspect for a time period of 15 months, except special authorisation taken by an order of the council of ministers and subject to operation of the property within the framework of the management objectives provided for in article 3 of these proceedings.

Article D.111-9 (Indemnity)

When the listing has prescriptions modifying condition or former use of the sites determining direct, material and certain prejudice, it grants indemnity to the owners.

In this case the indemnity application must be applied for within six (6) months from the notification of the listing decision. For lack of amicable agreement the expropriation judge gives the indemnity.

Article D.111-10 Consequences of the listing

Consequences of the listing follow the listed property at any time.

Whoever disposes, rents or grants a property listed protected natural area is obligated to tell the buyer, tenant or lessee, about the listing.

The person who transferred it must notify any transfer of a building located within a listed area within 15 days to the minister in charge of environment.

In this case, the territory may benefit from a right of pre-emption as provided for in Book I, Title III, Chapter I of the Development code of French Polynesia.

CHAPITRE 2 – SPECIAL PROVISIONS

SECTION 1 – Delisting

Article D.112-1

Total or partial delisting of a listed area to protected area is delivered according to proceedings provided for in article D.111-3.

It must be published as provided for in article D. 111-5.

SECTION 2 – Transitional provisions

Article D.112-2



An order issued by the president of the government sets up sites listing as provided for in Book 1, Title V of the Development code of French Polynesia and are therefore listed in one of the categories provided for in article 4 of these proceedings without having to respect procedure provided for in this chapter.

As for the so-called sites, an order of the council of ministers emphasises, within a period of one year from publishing of these proceedings and after approval of the natural monuments and sites committee, the regime applied to each of these areas in accordance with provisions of article 7 of this chapter.

(NB – order is 1255 PR of 14 August 2000 relisting natural sites and monuments within one of the categories provided for in the proceedings regarding nature protection – see theme card related to listing orders)

CHAPITRE 4 – PENAL PROVISIONS OF THE LAW

Article D.124-80

Whoever prevents entitled officials or agents to do their work is liable to penalties provided for in the following article 26, without prejudice, if necessary, of penalties provided for in articles 209 ff of the criminal code.

Article D.124-81

Offences to provisions of articles D.111-4, D 111-6, D 111-7, D 111-8, D 111-10, D.121-2, D.121-3, D.121-4, D.121-5, D.121-6, D.121-7, D.123-1, D.123-2, D.123-3 of this code are subjected to penalties applied to fifth class offences.

Article D.124-82

(Homologation of penalties under law No 91-6 of 4 January 1991 – references to be updated)

A fine from 50,000 to 1,000,000 XPF is applied to offences to articles 6, 7, 10, 11, 13, 16, 17,18, 19, 20, 21, 22, 23 and 24 of these proceedings.

For repeat offence a sentence of imprisonment from two to six months and a fine from 350,000 to 9,000,000 XPF is imposed, or one of these two penalties only.

Besides, transgression to provisions of articles 16, 17, 18 and 19 are liable to the following penalties:

- forfeiture of weapons, nets, crafts and any catching, picking or collecting devices, transportation means (airplanes, boats, cars, etc.) used by the offenders, pronounced by the court in case of conviction.
- Forfeiture and if necessary, destruction of nets, crafts and any catching, picking or collecting devices, transportation means (airplanes, boats, cars,



etc.) left by the unknown offenders, pronounced by the court in view of the report.

- Forfeiture of specimens pronounced by the court. Living specimens will be, as far as possible, reintroduced within their original environment. Otherwise, they will be either handed against discharge to individuals or corporations working for nature research or conservation, or to their destruction.

Besides, offences to provisions of article 22, 23 and 24 are liable to the following penalties:

- Forfeiture of specimens pronounced by the court. Immediate destruction of living plant species specimens. Living animal species specimens will be, as far as possible, upon proposition of the *délégation à l'environnement*, sent back to their original environment. Otherwise, they will be destroyed.

Offences to provisions of articles 22 and 24 are liable to penalties provided for in the code of customs of French Polynesia.

Finally, in case of offences to provisions of articles 6, 7, 10, 11, 13, 16, 17,18, 19, 20, 21, 22, 23 and 24 the judge may pronounce rehabilitation of locations at the offender's expenses and if necessary, pronounce destruction of constructions and developments of any nature, having an irregular character.

Any association regularly declared for at least one year at the date of the facts, offering in its statutes safeguard of all or part of provisions provided for in article 2 of these proceedings may apply rights provided for the civil party regarding rights of the civil party regarding facts constituting the offence to the provisions of these proceedings or order taken for its implementation and having a direct or indirect prejudice to interests they are supposed to defend.

