



THEME No 1.

**OBJECTS, SITES AND
MONUMENTS
PROTECTION**

CARD No 3

**MOVABLE AND IMMOVABLE PROPERTY
HAVING A HISTORICAL INTEREST OR
OTHER**

**PLANNING AND DEVELOPMENT CODE – BOOK 1 - TITLE 5
OF THE NATURAL AND CULTURAL HERITAGE OF THE
TERRITORY, SITES, MONUMENTS, OBJECTS AND
DEPENDING ELEMENTS LISTING AND PROTECTION AND
REGULATION OF EXCAVATIONS**

CHAPTER 1 – LISTING AND PROTECTION

Article D.151-1 :

In the territory a list of immovable assets and a list of natural sites or monuments which conservation or preservation offers a historical, artistic, scientific, legendary, folkloric interest. These different lists are published to the *Gazette* of the territory.



Application to these lists is made by order of the head of the territory in council of government, upon proposition of the natural sites and monuments committee, appointed as provided for in article D.100-2 of this code.

The administrative authority of the location notifies the owners of the properties, sites or monuments.

As from the application, these owners cannot modify aspect of the property, natural site or monument, conduct works other than those of normal operation regarding rural funds, normal repairs and maintenance regarding movable and immovable properties without notifying the head of the concerned administrative division at least two months before the scheduled works start.

Application is null and void one year after notification to the owner, if no listing proposition, has been regularly notified to the so-called owner within this one-year period.

Article D.151-2:

Movable and immovable properties, natural sites and monuments of which preservation presents a historical, artistic, scientific, legendary and folkloric interest, listed or not on lists provided for in the above article, may be listed in whole or part.

May be listed lands having ancient deposits stations and buildings of which listing is required to isolate, clear or improve a listed or applied for listing.

Article D.151-3:

At the initiative of the head of the territory, the administrative authority of the location notifies the listing proposal to the owner. The owner has a period of three months to present observations.

Outcomes of the listing apply as of right to the concerned movable, immovable property, to the natural site or monument, from this notification. They become null and void when the listing decision does not apply within the year following the notification date.

Article D.151-4:

If the owner accepts, an order of the head of territory taken in council of government sets up listing conditions and mentions approval of these conditions by the owner.

For lack of approval by the owner or after time period provided for in the previous article to present observations, the head of the territory may pronounce automatic listing following opinion of the natural sites and monuments committee.

Monuments and objects listing, except for sites, may grant the owner an indemnity relating to the automatic listing.

Indemnity application shall be, under penalty for foreclosure, made within 6 months from listing notification.

Article D.151-5:



Buildings belonging to the territory are listed by order of the head of the territory taken in council of ministers, following opinion of the natural sites and monuments committee and of the territorial assembly.

Those belonging to communes or territorial and communal public institutions are listed by order of the head of the territory taken in council of government, if there is approval of the public corporation owner.

In case of disagreement, listing can be passed only following assent of the natural sites and monuments committee and of the territorial assembly.

Listing process of buildings belonging to the State is provided for in provisions of article 8 of law 56-1106 of 3 November 1956.

Article D.151-6:

At the request of the head of the territory, order passing listing of a building is notified to the owner and transcribed at the land registry of Papeete, at the proposal of the Registrar appointed within conditions provided for in article D.152.1 hereinafter. This transcription is free of charge.

Article D.151-7:

Expropriation of a listed building or scheduled to be listed, of buildings of which acquisition is requested to isolate, clear or improve a listed or applied for listing building is regulated by current laws and regulations.

For lack of listing order and when common public interest has been passed, the building is temporarily subjected to all listing outcomes, but it stops as of right, if within three months of the common public interest statement, the administration does not proceed to the prior expropriation measures.

Article D.151-8:

Outcomes of the listing follow the property, natural site or monument, whoever it belongs to. No one may acquire rights by prescription on a listed building, site or monument. Whoever alienates a listed property, natural monument or site or part of a listed site is obliged to tell the buyer existence of the listing prior to alienation.

The person having approved alienation of a listed property, natural site or monument or part of a listed site, must, within the month of the date, notify it to the head of territory.

Listed property, natural site or monument or part of a listed site may not be destroyed and moved, nor be restored or repaired or modified without authorization of the head of territory subjected to conditions set up.

Article D.151-9:

The head of the territory may apply, on behalf of the territory, over any public sales of properties in compliance to definitions of articles D.151.1 and D.151.2, above, a right of pre-emption with which the territory will be surrogated to the winning bidder.



Statement is made by the head of the territory or representative that s/he wants to use her/his right of pre-emption that will be formulated at the end of the sale to the public or ministerial officer in charge of the bidding.

Decision of the head of the territory is to be taken within 20 days for the island of Tahiti and within two months for the other islands.

Article D.151-10:

The head of the territory may automatically proceed, at the territory's expenses, to repair and maintenance works, thought essential to conservation of listed properties, natural sites and monuments. For urgent consolidation works in a listed building, the head of the territory, for lack of amicable agreement with the owner, may authorize, with an order, temporary occupation of the building or of surrounding buildings. Duration may not exceed six months, in case of damage an indemnity may be granted.

Article D.151-11:

No new construction may be leaned against a listed building without express authorization of the head of the territory.

Signs are prohibited on listed buildings, natural monuments and sites, provisions of title VI of book I of this code do not apply.

They may be prohibited around the so-called listed buildings, natural monuments and sites, within an area, which is, in each particular case, set up by order of the head of the territory taken in council of government.

Legal alignment easements and others that would result in degradation of monuments do not apply to listed buildings.

No easement may be set up by agreement over a listed building, natural site or monument without the approval of the head of government, taken in council of government.

Article D.151-12 :

(proceedings. No 94-95 AT of 21 July 1994)

A protection area may be set up in compliance of provisions set up in chapter 2, title 2 of book 1 of this code, around listed natural sites and monuments or scheduled on the list as provided for in article D.151.1, as well as around areas having historical, scientific, artistic, picturesque or tourist interest.

Article D.151-13:

The order is transcribed at the land registry of Papeete within the conditions provided for in article D.151.6. This transcription is free of charge.

Article D.151-14:



Whole or part delisting of a listed building, natural site or monument is the same as in the listing. The delisting act is notified to the owner and transcribed at the land registry of Papeete, at the owner's request. This transcription is free of charge.

CHAPTER 2- NATURAL SITES AND MONUMENTS COMMITTEE AND NATURAL AND CULTURAL HERITAGE DELEGATION

SECTION 1 – NATURAL SITES AND MONUMENTS COMMITTEE

Provisions of this section amended in the environment code by order no 1843 CM of 15 December 2003 regarding codification of territorial regulations relating to environment and establishing the environment code of French Polynesia, and modifying the planning and development code of French Polynesia.

SECTION 2 – NATURAL AND CULTURAL HERITAGE DELEGATION

Article D.152-2 :

(Proceedings no 76-112 of 14 September 1976)

The head of the territory appoints during the council of government a delegate to the natural and cultural heritage.

Missions of this sworn agent, ex officio member of the natural sites and monuments committee are:

- to see to conservation of movable and immovable properties and of listed monuments or scheduled on the list provided for in article D.151 above;
- coordinate and monitor studies, research and works undertaken relating to natural and cultural heritage of the territory, of which he must be notified of;
- to provoke, if necessary, listing of new immovable properties, natural sites and monuments;
- to control carrying out of excavations and sounding on lands where they are carried out;
- to record with a report offences to provisions of this code;
- to ask, in case of export of listed or scheduled properties, to the list provided for in article D.153-1 hereinafter is asked, acquisition of these properties, in accordance to provisions of article D.153-2 below.

In public sales, he carries the pre-emption right that, according to article D.151-9, as is the right of the head of the territory.

CHAPTER 3 – EXPORTATIONS CONTROL

Article D.153-1 :

Export outside the territory of listed properties or scheduled on the list provided for in article D.151-1 is prohibited. However, exceptionally, the head of the territory in council of government and after opinion of the natural sites and monuments committee may authorize it.



Besides, a list of categories of objects presenting a historical, legendary, scientific or folkloric interest is set up by order of the head of the territory taken in council of government after opinion of the natural sites and monuments committee.

Objects listed in those categories may not be exported outside the territory, without authorisation of the head of the government in council of government, after opinion of the natural sites and monuments commission.

Article D.153-2 :

The head of the territory may hold, either for the territory or for a commune or public institution, objects which export is asked for payment to the exporter of a fair indemnity.

Amount of this indemnity is set up amicably or following opinion of experts if the exporter has asked for an expertise. The retention right is exercised for a period of six months.

CHAPITRE 4- EXCAVATIONS

Article D.154-1 :

No one may carry out, on a land owned or owned by another, excavations or soundings, in order to search for objects that may interest prehistory, history, science, art or archaeology, without having the prior authorization of the head of the territory in council of government. Any authorized excavation must be reported with detailed schedule of found objects, any discovery is to be conserved and immediately reported to the administrative authority.

Article D.154-2 :

The head of the territory may, in the interest of public institutions, claim objects excavated, within conditions provided for in article D.154.3 hereinafter.

Article D.154-3 :

The head of the territory may cancel the excavations authorization granted:

1) if prescriptions imposed for carrying out such research or conservation of discoveries made are not followed;

2) if, because of importance of these discoveries, the government of the territory feels that the territory should carry out the excavations or buy the lands.

From the day the government notifies intent to remove the authorization, excavations must stop.

Article D.154-4 :

If the authorization is removed because of non-compliance to conditions stated, the author of the research cannot ask for any indemnity because of the removal or expenses he had.



However s/he may get refund of the amount for works or structures that may be used by the government to carry out excavations.

Article D.154-5 :

If the authorization for excavations is removed in order to allow the government to carry them out, attribution of objects discovered prior to the suspension of excavations remains under provisions of article D.154-6 hereinafter.

Article D.154-6 :

The head of the territory may automatically conduct excavations or soundings on land not belonging to the territory, except, however lands next to built buildings and closed with walls or equivalent fences.

Failing amicable agreement with the owner, carry out of excavations or soundings is stated of public interest with order of the head of government in council of government, after compliance opinion of the territorial assembly which authorizes temporary occupation of the lands. Occupation may not exceed five years.

Provisions of 15^o of article 28 or the organic law 96-312 of 12 April 1996 regarding self-governance of French Polynesia and giving the council of ministers public utility statement, opinion of the assembly of French Polynesia is no longer required.

Article D.154-7 :

Ownership of discoveries made during the excavations and carried out in compliance with conditions provided for in article D.154-5 above is split between the government of the territory and the owner of the land, according to common law regulations.

However, the head of the territory may claim the objects as provided for in articles D.154-2 and D.154-3 above.

See preliminary observation no 1.

Article D.154-8 :

When, after works or other, monuments, ruins, remains of dwellings or ancient tombs, inscriptions or in general objects relating prehistory, history, science, art, archaeology are discovered, the finder of these objects and the owner of the building where they have been discovered, must declare them immediately to the relevant administrative authority, according to the location of the discovery.

Article D.154-9 :

The head of the territory rules in council of government measures regarding immovable discovered by chance.

Ownership of immovable findings discovered by chance, remains ruled by article 716 of the civil code, but the government of the territory may claim these findings for an indemnity set up amicably or according to expert. Amount of the indemnity is split



between the finder and the owner according to common law regulations, expertises expenses deducted if necessary.

Within three months from the set up of the amount of the object, the head of the territory may forfeit the purchase, however he must pay for the expertise expenses.

CHAPITRE 5 - PENALTIES

Article D.155-1 :

Offenders to provisions of title 5 of Book 1 of this code are liable of penalties provided for in order 238/MI/AA of 19 March 1958 for 5th category offences.

