

Defending kangaroos in the ACT: offences, penalties, and rangers' powers

This fact sheet is for general information purposes and is not legal advice. It provides a brief overview only of this area of the law. If you require legal advice relating to your particular circumstances you should contact a solicitor.

Can I enter an ACT nature reserve that has been closed for shooting kangaroos during a 'cull'?

It is an offence in the ACT to enter a nature reserve that has been declared closed.¹ If you enter a closed reserve you could be issued with an on-the-spot fine, or 'infringement notice', of \$1,500.² Or you could be prosecuted and face a penalty of up to \$8,000. A notice about the closure of the reserve must be published on an ACT government website or in a newspaper, and be displayed at a conspicuous place at the reserve.³

Case: In 2014 a person was apprehended on a nature reserve that was closed for kangaroo shooting. Signs stating that firearms were in use and that entry to the reserve was prohibited had been erected around the reserve. The person was later prosecuted for contravening a requirement on a sign at the entry of a reserve and entering a reserve where entry was prohibited.⁴ The court sentenced the person to a 12-month good behaviour order.



Can rangers make me leave a reserve?

Yes. If you are found by rangers on a reserve that has been declared closed, they can order you to leave the reserve immediately if they believe on reasonable grounds that you have committed, are committing, or are about to commit an offence (eg entering a closed reserve).⁵ This is a 'leave reserve direction'.⁶ You must comply with the direction, but only if the rangers show you their ID card and tell you that it is an offence to fail to comply with the direction.⁷ The rangers may issue a fine of \$300 if you fail to comply with the direction.⁸ A ranger's power to order you to leave (or 'move on') does not apply outside a reserve.

Do I have to provide my name and address to rangers?

Yes. A ranger can direct you to state your full name and home address but only if the ranger reasonably believes that you have committed, or are committing, or are about to commit an offence (eg entering a closed reserve), or that you could help in an investigation of an offence.⁹ If the ranger asks you to provide this information, you can ask them what offence(s) do they believe you have committed (or are committing or will commit) and on what grounds. The ranger can also direct you to provide evidence of your name and address if he or she reasonably believes that the information you have provided is false or misleading. The ranger must tell you that it is an offence not to comply with these directions.¹⁰ If you fail to comply with either type of direction (giving your name and address, or providing evidence), you could be fined \$150.¹¹ If prosecuted, you could face penalties of up to \$800 if convicted.

¹ Subsection 260(1), *Nature Conservation Act 2014* (ACT) (**the Act**). This offence is a strict liability offence. This means it does not have to be proven that you knew you were going on to a reserve that has been closed. It is a defence to a prosecution for an offence of entering a closed reserve if 'reasonable steps' were taken to prevent the contravention (s 260(3)) eg being on the reserve due to an emergency, or where it was unavoidable by taking reasonable care.

² *Magistrates Court (Nature Conservation Infringement Notices) Regulation 2015* (**the Regulation**), Schedule 1, Item 37. Conservation officers can serve infringement notices if they believe, on reasonable grounds, that a person has committed an offence (*Magistrates Court Act 1930* (ACT), s 120).

³ The Act, s 259(4). The closure of nature reserves for kangaroo shooting also must be notified on the ACT's legislation register eg the *Nature Conservation (Closed Reserves) Declaration 2024 (No 3)*, <https://www.legislation.act.gov.au/ni/2024-286/>.

⁴ *Nature Conservation Act 1980* (ACT) (**the 1980 Act**), ss 65(2) and 63(3).

⁵ The Act, s 325(1)(b)(ii).

⁶ The Act, s 325(2). You can also be given a leave reserve direction for acting in 'an offensive way' or for creating a 'public nuisance' (s 325(1)(b)(i)).

⁷ If the ranger does both things, it is an offence not to comply with his or her direction: s 326(1) of the Act.

⁸ The Regulation, Sch 1, Item 47. Alternatively, you could be prosecuted and face penalties of up to \$1,600.

⁹ The Act, s 319. You do not have to provide any other information.

¹⁰ The Act, ss 319(3) and (4). It is an offence under s 320(1) to fail to comply with either type of direction. In the ACT it is a general criminal offence to give false or misleading information in certain circumstances: Part 3.4 of the *Criminal Code 2002* (ACT); maximum penalty \$16,000, or 1 year jail, or both (s 338(1)).

¹¹ The Regulation, Sch 1, Item 44.

Case: A person was found on an ACT nature reserve that was closed during a kangaroo killing period in 2014. The person provided a name that they use regularly, but that was different from their formal name. The ranger believed the person was committing an offence (being on a closed nature reserve), so the person was charged for failing to provide their 'full name' when requested by the officer. The charge was subsequently dropped.



Do rangers have to show me their ID card or give me a warning?

Yes. If a ranger asks you to provide your name or address, or requires you to leave a reserve, then the ranger must show you his or her ID card. Rangers must also warn you that failure to comply with their request is an offence.¹² It is up to you to prove that the ranger did not show you his or her ID card or give you a warning (and not up to the ranger to prove that he or she did show it or warn you).¹³

Can rangers touch me?

Under the Act, rangers are not vested with the power to touch you in exercising any of their functions described in this fact sheet. However, like any other individual, rangers can perform a citizen's arrest on anyone they suspect is committing an offence.¹⁴ A reasonable amount of force may be applied, which can include touching you, when conducting a citizen's arrest or in detaining you, for example while a ranger waits for police assistance.

What if I'm outside a nature reserve, can I still be arrested?

Public land other than nature reserves can also be closed during kangaroo kills. It is an offence under ACT law to enter 'unleased Territory land' if it has a sign prohibiting trespass.¹⁵

Case: During the 2014 kangaroo kill a person was allegedly found on 'unleased Territory land' in Belconnen ACT. The ACT Government claimed that signs had been placed around it prohibiting trespass. In 2015 the person was charged with trespass under the *Trespass on Territory Land Act 1932* (ACT). In 2016 the matter was heard in the ACT Magistrates Court, but the Court dismissed the charges because the prosecution could not prove that a sign had been erected or that the person was on the land in question.

If you are outside a nature reserve but doing something that might be regarded as obstructing a ranger or police officer¹⁶, or even the shooters inside the reserve, in carrying out their duties, you could be charged with 'obstructing, hindering, intimidating or resisting' a territory official in the exercise of his or her functions as a public official.¹⁷ There is little guidance as to what may constitute 'obstruction', but it could be as little as shining a light into the reserve (that would delay the shooting) or talking aggressively to rangers. It has to be proven that you knew, or you were reckless about whether, the person was a public official. It doesn't matter if it was dark and you couldn't actually identify the specific public official out of a group of people.¹⁸ If you are charged with an 'obstruction' offence it must be prosecuted in court – a fine or 'criminal infringement notice' cannot be issued.

Case: In 2016 the ACT Magistrates Court found a person guilty of knowingly hindering a public official because the person had blown a whistle at night outside a nature reserve causing the shooting to be delayed for 45 minutes. The territory official whose duties were said to have been obstructed was a public servant who was supervising the cull. The Court's decision was later overturned by the ACT Supreme Court, which found that the cull was not carried out under a valid licence so the person could not have unlawfully hindered an invalid cull.¹⁹

¹² The Act ss 320(3) and 326(3)(a). This also applies to other directions given under the Act: ss 328(3) and 330(3).

¹³ See the legislative notes to ss 320(3) and 326(3).

¹⁴ *Crimes Act 1900* (ACT), s 218. See also: <https://police.act.gov.au/crime/citizens-power-arrest>.

¹⁵ *Trespass on Territory Land Act 1932* (ACT), s 4.

¹⁶ *DPP v Nicholas Reed* [2023] ACTSC 310.

¹⁷ *Criminal Code 2002* (ACT) ss 361, 363. The maximum penalty is \$32,000 or 2 years' imprisonment, or both.

¹⁸ *Klootwijk v Hipwell* [2016] ACTSC 182 at [11]: <https://courts.act.gov.au/supreme/judgments/klootwijk-v-hipwell>.

¹⁹ *Klootwijk v Hipwell* [2016] ACTSC 182 at [16].

DISCLAIMER

While all care has been taken in preparing the information on this fact sheet, it is not a substitute for legal advice. For any specific questions we recommend you seek legal advice. The Animal Defenders Office accepts no responsibility for any loss or damage suffered by people relying on the information on this fact sheet.