

103. Administering Poison with Intent to Harm: s 322

103.1 Legislation

[Last reviewed: December 2024]

Criminal Code

[Section 322](#) – Administering poison with intent to harm

103.2 Commentary

[Last reviewed: December 2024]

The defendant must have:

- (1) Unlawfully;
- (2) caused a poison or another noxious thing to be administered to, or taken by, any person;
- (3) with intent to injure or annoy another person.

Administer

The word 'administer' includes conduct which, not being the application of direct physical force to the complainant, nevertheless brings the noxious thing into contact with the complainant's body. This could include, for example, the spraying of gas into the face of a complainant: see *R v Gillard* (1988) 87 Cr App R 189. In *R v Murphy* [1996] QCA 256 the majority of the court held that for the purpose of 'administering', it is insufficient if no more is done than to give, supply or provide a stupefying drug to a person who, knowing its effects, voluntarily inhales it.

Noxious thing

It is a question of fact and degree in all the circumstances as to whether a thing is noxious. In some cases, a thing may only be noxious in certain quantities: *R v Barton* (1931) 25 QJPR 81. In *R v S* [1996] QCA 93, Fryberg J observed at 8-9:

It may be relevant to take into account the quantity of the drug which was administered as well as any susceptibilities or immunities of the person to whom it was administered which may promote or retard its effect.

[...]

If the Crown seeks to demonstrate that the drug in question was stupefying by reference to its effects on human beings generally, some evidence of the quantity of the drug needed to have a stupefying effect on a person with relevant characteristics of the person to whom the drug was administered may be necessary.

Intention

See the direction on intention at **Direction 59 – Intention**.

Aggravation

The offence is aggravated if the poison or other noxious thing endangered the life of, or did grievous bodily harm to, the complainant.

103.3 Suggested Direction

[Last reviewed: November 2024]

The prosecution must prove beyond reasonable doubt that:

1. The defendant caused a poison or another noxious thing to be:

(a) administered to; or

(b) taken by,

The complainant.

[Address relevant issues in contention such as what administer to means, what a poison or noxious thing is].

2. The defendant did so unlawfully i.e. it was not authorised, justified or excused by law; [address any defences arising] and

3. The defendant did so with intent to

(a) injure, or

(b) annoy

The complainant. [address issues in contention as to intention]

4. Circumstance of aggravation

That the poison or other noxious thing endangered the life of, or did grievous bodily harm to, the complainant.

[Explain meaning of grievous bodily harm and address issues in contention]