

Administering poison with intent to harm: s 322

Legislation

322 Administering poison with intent to harm

A person who unlawfully, and with intent to injure or annoy another person, causes a poison or another noxious thing to be administered to, or taken by, any person commits a crime.

Maximum penalty—

- (a) if the poison or other noxious thing endangers the life of, or does grievous bodily harm to, the person to whom it is administered or by whom it is taken—14 years imprisonment; or
- (b) otherwise—7 years imprisonment.

Commentary

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. Thus, it would be apt in law to encompass the spraying of ZS gas from a canister into the face of the victim. 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.

Intention

See the direction on intention at **Benchbook No 59 – Intention**.

Suggested Direction

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,**
 - (c) **any person**
2. **The defendant did so unlawfully i.e. it was not authorised, justified or excused by law; and**

3. The defendant did so with intent to

- (a) injure, or**
- (b) annoy**
- (c) another person.**

4. Circumstance of aggravation

That the poison or other noxious thing endangered the life of, or did grievous bodily harm to, the person to whom it was administered or by whom it was taken.