

Administering poison with intent to harm: s 322

The prosecution must prove that:

1. The defendant caused a poison or another noxious thing to be:
 - (a) administered¹ 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 intent² 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.

¹ The word “administer” includes conduct which, not being the application of direct physical force to the victim, nevertheless brings the noxious thing into contact with the victim’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.

² See notes to Intention.