

Administering a Stupefying or Overpowering Drug or Thing with Intent: s 316

The prosecution must prove that:

- 1. The defendant administered, that is, gave, supplied or provided the stupefying or overpowering drug or thing¹ to the complainant;**
- 2. The defendant knew it was a stupefying or overpowering drug or thing²;**
- 3. The defendant intended the complainant to take it;**
- 4. The defendant did so with intent:³**
 - (a) to commit or to facilitate the commission of an indictable offence; or**
 - (b) to facilitate the flight of an offender after the commission or attempted commission of an indictable offence.**

The offence alleged is an indictable offence.

¹ This is a question of fact and will often depend on expert opinion evidence based on given facts. A thing which stupefies by intoxicating is a stupefying thing.

² 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.

³ See notes to Intention.