

ADMINISTERING OFFENCES

DEFINITIONS

The Offences Against the Person Act 1861 contains two “administration” offences. First, section 23:

“Whosoever shall unlawfully and maliciously administer to or cause to be administered to be taken by any person any poison or other destructive or noxious thing, so as thereby to endanger the life of such person, or as thereby to inflict upon such person any grievous bodily harm, shall be guilty of an offence.”

The second is in s24:

“Whosoever shall unlawfully and maliciously administer or cause to be administered to or be taken by any other person any poison or other destructive or noxious thing, with intent to injure, aggrieve, or annoy any such person, shall be guilty of [an offence].”

The maximum penalty for an offence under s 23 is ten years’ imprisonment, for an offence under s 24, five years’.

ACTUS REUS

Administer

Something can be administered directly or indirectly, and administration may even consist of causing the victim to administer the substance to himself. A relevant authority is:

Gillard (1988) 87 Cr App R 189 – The defendant bought CS gas to attack the doorman of a wine bar. He appealed from his conviction for ‘conspiracy to cause to be administered a noxious thing ...’ on the ground that administer does not encompass spraying CS gas. The Court of Appeal upheld his conviction. It was held that the word “takes” postulates some “ingestion” by the victim. “Administer” must have some other meaning and would include spraying the victim. There was no need to postulate entry into the body: bringing a noxious thing into contact with the body, directly or indirectly, was enough.

Noxious substance

There are two approaches:

- **R v Cato (1976) 62 Cr App R 41** – The Court of Appeal stated that a substance was noxious for the purposes of these offences if it was likely to injure in common use.
- **R v Marcus [1981] 1 WLR 774** – It was held that whether or not a substance was noxious would depend on the circumstances in which it was taken. This would include the quality and quantity of the substance, and the characteristics of the person to whom it was being given.

Section 23

For the s23 offence, the administration must endanger life or inflict grievous bodily harm.

MENS REA

Both offences require that the defendant must act maliciously, ie intentionally or recklessly. Further:

- For the s23 offence, the defendant must also act, it is submitted, with the specific intent of endangering life or to inflict gbh.
- For the s24 offence, there must be the specific intent to injure, aggrieve or annoy.

The nature of the further intent was considered by the House of Lords:

R v Hill [1986] Crim LR 815 – The defendant, a homosexual man, admitted giving some prescription slimming tablets to a number of small boys. He had hoped that the effect of the tablets would be to lower the boys' inhibitions and make them more susceptible to his advances. The House of Lords upheld his conviction on the basis that there was overwhelming evidence that the defendant had intended the administration of the tablets to injure the metabolism of the boys who took them. The matter had to be approached by looking at the object that the defendant had in mind.

REFORM

In 1998, the Home Office issued a Consultation Document, *Violence: Reforming the Offences Against the Person Act 1861*, together with a draft bill. Clause 11 would replace both ss23 and 24 with a new offence of administering a substance capable of causing injury. Clause 11 provides:

- (1) A person is guilty of an offence if –
 - (a) he administers a substance to another or causes it to be taken by him and (in either case) he does so intentionally or recklessly,
 - (b) he knows the substance is capable of causing injury to the other, and
 - (c) it is unreasonable to administer the substance or cause it to be taken having regard to the circumstances as he knows or believes them to be.
- (2) A person guilty of an offence under this section is liable –
 - (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years;
 - (b) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum.