

106. Minimum penalties

- (1) In this section —
- “**minimum penalty**” means a penalty provided for or in relation to an offence that is expressed to be a minimum penalty (including a minimum period of disqualification from holding or obtaining a driver’s licence), whether by use of the expression “minimum penalty” or “not less than” or by any other like expression.
- (2) Subject to subsection (3), a minimum penalty in this Act is irreducible in mitigation despite the *Sentencing Act 1995* and the *Young Offenders Act 1994*.
- (3) Despite subsection (2) and Part 5 of the *Sentencing Act 1995*, a court sentencing a person who has been convicted of —
- (aa) an offence against section 49(1);
 - (a) a first or second offence against section 63 or 67; or
 - (b) an offence against 64 or 67A,
- may, instead of imposing a fine —
- (c) order the release of the offender and impose a community based order under Part 9 of the *Sentencing Act 1995* with at least the community service requirement as a primary requirement of the order; or
 - (d) if the offender is a young person under the *Young Offenders Act 1994*, subject to sections 50, 50A and 50B of that Act, make a youth community based order under that Act imposing at least community work conditions on the offender.
- (4) If a court deals with a person under subsection (3), it must also disqualify the offender from holding or obtaining a driver’s licence for a period not less than any minimum period provided in relation to the offence concerned.

[Section 106 inserted by No. 78 of 1995 s. 116; amended by No. 51 of 2000 s. 17.]