

## 106. Sentencing for certain offences

- (1) In this section —
- “**minimum fine**” means a pecuniary penalty provided for or in relation to an offence that is expressed to be a minimum penalty, whether by the use of the expression “minimum penalty” or “not less than” or another like expression.
- (2) Without limiting the *Sentencing Act 1995*, and despite any other written law, a minimum fine in this Act is irreducible in mitigation.
- (3) A court sentencing a person who has been convicted of —
- (a) a first offence against section 63 or 67; or
  - (b) an offence against section 64 or 67A,

may, instead of imposing a fine —

- (c) order the release of the person 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 sentencing a person who has been convicted of —
- (a) an offence against section 49 committed in the circumstances mentioned in section 49(2); or
  - (b) a second or subsequent offence against section 63 or 67,

orders the release of the offender and imposes a community based order or an intensive supervision order under the *Sentencing Act 1995*, the court must impose at least the community service requirement as a primary requirement of the order.

- (5) If a court sentencing a person who has been convicted of —
- (a) an offence against section 49 committed in the circumstances mentioned in section 49(2); or
  - (b) a second or subsequent offence against section 63 or 67,

orders the release of the offender and imposes a youth community based order or an intensive youth supervision order under the *Young Offenders Act 1994*, the court must impose community work conditions on the offender as part of the order.

[Section 106 inserted by No. 50 of 2003 s. 28; amended by No. 74 of 2003 s. 105(4).]