



Number 41 of 1997

**TRANSFER OF SENTENCED PERSONS (AMENDMENT)
ACT, 1997**

ARRANGEMENT OF SECTIONS

Section

1. Amendment of section 7 of Transfer of Sentenced Persons Act, 1995.
 2. Insertion of section 10A in Transfer of Sentenced Persons Act, 1995.
 3. Insertion of section 10B in Transfer of Sentenced Persons Act, 1995.
 4. Short title and collective citation.
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[No. 41.] *Transfer of Sentenced Persons* [1997.]
(Amendment) Act, 1997.

ACT REFERRED TO

Transfer of Sentenced Persons Act, 1995

1995, No. 16



Number 41 of 1997

**TRANSFER OF SENTENCED PERSONS (AMENDMENT)
ACT, 1997**

AN ACT TO AMEND THE TRANSFER OF SENTENCED PERSONS ACT, 1995, AND TO PROVIDE FOR CONNECTED MATTERS. [17th December, 1997]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—The Transfer of Sentenced Persons Act, 1995, is hereby amended in section 7—

Amendment of section 7 of Transfer of Sentenced Persons Act, 1995.

(a) by the substitution of the following subsections for subsections (5) and (6):

“(5) (a) On an application to the High Court under subsection (1) of this section, if the sentence concerned imposed by the sentencing state concerned is by its legal nature incompatible with the law of the State, the Court may adapt the legal nature of the sentence to that of a sentence prescribed by the law of the State for an offence similar to the offence for which the sentence was imposed.

(b) The Minister may, in his or her absolute discretion if he or she thinks it appropriate to do so, include in an application to the High Court under subsection (1) of this section an application that the Court adapt the duration of the sentence concerned imposed by the sentencing state concerned to that of a sentence prescribed by the law of the State for an offence similar to the offence for which the sentence was imposed and, if the Minister does so and the sentence concerned imposed by the sentencing state concerned is by its duration incompatible with the law of the State, the Court may adapt the duration of that sentence as aforesaid.

(6) (a) The legal nature of a sentence adapted under paragraph (a) of subsection (5) of this section shall, as far as practicable, correspond to the

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- S.1 legal nature of the sentence concerned imposed by the sentencing state concerned and shall not, in any event, either—
- (i) aggravate it, or
 - (ii) exceed the maximum penalty prescribed by the law of the State for a similar offence.
- (b) The duration of a sentence adapted under paragraph (b) of subsection (5) of this section shall, as far as practicable, correspond to the duration of the sentence concerned imposed by the sentencing state concerned and shall not, in any event, either—
- (i) aggravate it, or
 - (ii) exceed the maximum penalty prescribed by the law of the State for a similar offence.”,

and

- (b) by the insertion of the following subsection after subsection (9):

“(10) In this section, a reference to the legal nature of a sentence does not include a reference to the duration of such sentence.”.

Insertion of section 10A in Transfer of Sentenced Persons Act, 1995.

2.—The Transfer of Sentenced Persons Act, 1995, is hereby amended by the insertion after section 10 of the following section—

“10A.—The Minister shall as far as practicable make a decision on an application under section 4(1) of this Act or on a consent to an application under subsection (1) or (2) of section 6 of this Act within 6 months of the date of the application.”.

Insertion of section 10B in Transfer of Sentenced Persons Act, 1995.

3.—The Transfer of Sentenced Persons Act, 1995, is hereby amended by the insertion after section 10 of the following section—

“10B.—Pending a decision on an application under section 4(1) of this Act or on a consent to an application under subsection (1) or (2) of section 6 of this Act, the Minister shall keep the applicant (and the sentenced person concerned, if he or she is not the applicant) informed at regular intervals on the progress of the application.”.

Short title and collective citation.

4.—(1) This Act may be cited as the Transfer of Sentenced Persons (Amendment) Act, 1997.

(2) The Transfer of Sentenced Persons Act, 1995, and this Act may be cited together as the Transfer of Sentenced Persons Acts, 1995 and 1997.