

Mental Capacity (Amendment) Bill [HL]

AMENDMENTS

TO BE MOVED

IN COMMITTEE OF THE WHOLE HOUSE

[Supplementary to the Second Marshalled List]

Clause 2

BARONESS THORNTON

Baroness Thornton gives notice of her intention to oppose the Question that Clause 2 stand part of the Bill.

Clause 3

BARONESS THORNTON

Page 3, line 33, at end insert –

“21ZB Presumption of P giving evidence

- (1) This section applies where an authorisation under Schedule AA1 –
 - (a) has effect, or
 - (b) is to have effect from a date specified under paragraph 22 of that Schedule.
- (2) P shall be presumed to give evidence in Court of Protection proceedings.
- (3) This presumption may be rebutted, having regard to P’s rights, including by evidence that P –
 - (a) is not competent to give sworn evidence; or
 - (b) does not wish to provide evidence (in whichever form) to the court.
- (4) Evidence from P shall be secured in any form that the court and the parties consider appropriate having regard to P’s circumstances and may include the following –
 - (a) sworn evidence given orally in court;
 - (b) unsworn evidence given orally in court;
 - (c) unsworn evidence given outside of the court;
 - (d) a written statement;
 - (e) pre-recorded evidence.

Clause 3 - continued

- (5) The appropriate authority may make regulations outlining the measures that will be available to support P to give evidence in proceedings.”

Baroness Thornton gives notice of her intention to oppose the Question that Clause 3 stand part of the Bill.

After Clause 3

BARONESS MEACHER
BARONESS MURPHY
BARONESS WATKINS OF TAVISTOCK

Insert the following new Clause—

“Non-application to individuals in domestic settings

This Act does not apply to individuals in domestic settings where possible deprivation of liberty is at issue.”

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17 October 2018
