AMENDMENTS
TO BE MOVED
ON REPORT

After Clause 3

BARONESS TYLER OF ENFIELD

Insert the following new Clause—

“Requirements before commencement

(1) Before any provisions of this Act other than those which come into force on its passing can come into force, the requirements under subsection (2) must be met.

(2) The requirements are as follows—

(a) the Secretary of State must publish an updated code of practice giving guidance for decisions made under the Mental Capacity Act 2005, including the provisions of the Mental Capacity Act 2005 that are amended by this Act; and

(b) the Secretary of State must publish a response to the Independent Review of the Mental Health Act, chaired by Professor Sir Simon Wessely.

(3) The Secretary of State must lay a copy of the publications required by subsection (2) before both Houses of Parliament.”

Clause 5

BARONESS TYLER OF ENFIELD

Page 4, line 14, after first “section,” insert “section (Requirements before commencement),”

Schedule 1

BARONESS TYLER OF ENFIELD

Page 5, line 33, at end insert—

“(1A) For the purpose of paragraph 2(1)(b), arrangements which give rise to the deprivation of the cared-for person’s liberty are those in which—
Schedule 1 - continued

(a) the cared-for person is subject to confinement in a particular place for a not negligible period of time; and
(b) the cared-for person has not given valid consent to their confinement.

(1B) For the purpose of paragraph 2(1A)(a), a cared-for person is subject to confinement where—
(a) the cared-for person is prevented from removing himself or herself permanently in order to live where and with whom he or she chooses; and
(b) the dominant reason for the deprivation of liberty is the continuous supervision and control of the cared-for person, and not treatment for their underlying condition.”

BARONESS THORNTON
Page 13, line 32, at end insert—
“(za) meet with the cared-for person, if it appears to be appropriate and practicable to do so,”

BARONESS BARKER
Page 14, line 36, leave out from “ensure” to end of line 37 and insert “the cared-for person, any person appointed to represent the cared-for person and any person likely to be carrying out the arrangements are notified.”

BARONESS THORNTON
Page 16, line 20, after “interest” insert “in the welfare of the cared-for person, or”

BARONESS BARKER
Page 16, line 33, at end insert “and”

BARONESS THORNTON
Page 19, line 11, at end insert “, or
(ii) the cared-for person has nobody apart from paid carers to be consulted as part of determining his or her best interests.”
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15 November 2018