Justice Committee  
Management of Offenders (Scotland) Bill  
Written submission from Edinburgh Bar Association  

Part One

1. We are broadly in favour of the use of electronic monitoring of offenders as set out in Part 1 of the Bill. This could assist in ensuring compliance with court orders and thus ultimately benefit both the offender and the wider public. If an offender successfully completes a community based order this may reduce their risk of reoffending. Money and court time may also be saved if the number of orders being returned to the court for breach is reduced. The Government should however bear in mind that many instances of non-compliance are due to chaotic lifestyles and homelessness and not wilful breaches. There may therefore be many situations where electronic monitoring might have a limited effect or indeed not be possible.

It is also worth mentioning that Restriction of Liberty Orders are not used as often as might have been anticipated. This is particularly the case with orders which intend to prevent an offender going to a particular place. It is not clear to this Association how the Government envisages using electronic monitoring in conjunction with a ROLO.

2. The reforms in Part 1 of the Bill do not deal with accused persons who have not yet been convicted and this might be worth considering in conjunction with the work the Government is doing on the issue of remand. When a curfew condition is imposed it is enforced by the police who attend the address on a random basis to check compliance, often in the middle of the night. This can be disruptive for other family members and takes up the time of the police.

There are often bail conditions imposed requiring accused persons to stay away from a particular place and such conditions might be strengthened by electronic monitoring too.

Obviously such accused persons are presumed innocent however and as such care would have to be taken not to overuse restrictions on liberty at that stage in proceedings.

3. The Association would simply observe that offenders with alcohol and drug addictions might have complex needs and Drug Treatment and Testing Orders and alcohol programmes tailor treatment to those needs. Complete abstinence from the outset is not expected and indeed can be dangerous. An offender on a DTTO undergoes a titration process until they are stable on prescribed medication. Some element of drug use at the start of an order is expected. The aim of the order is to eliminate drug use and assist the offender with other aspects of their lives. This is a lengthy progress and varies from case to case. However, often an offender on such a programme finds it difficult to accurately monitor and declare drug/alcohol use and if the technology existed to assist with that it might have some benefit in giving the supervisors accurate information on which to base any treatment plan.
Part 2

The Association would observe that the rules of disclosure of convictions at present are complex and many people find them difficult to understand. Simplification of the rules would be welcomed. Solicitors are often asked whether a conviction would be considered ‘spent’ as lay persons find the information difficult to access and understand. We also consider that it is of benefit to the offender and the public to reduce the period of time in which a conviction is ‘spent’ and to allow sentences of up to 48 months to become ‘spent’.

Part 3

The Association has no particular views in relation to this part of the Bill.

Edinburgh Bar Association
27 March 2018