

COMPETITION BILL 2020

Explanatory Memorandum

1. This Bill is promoted by Mr Bill Henderson, MLC on behalf of the Isle of Man Office of Fair Trading.
2. *Clauses 1 and 2* deal, respectively, with the Short Title and Commencement of the resulting Act.
3. *Clause 3* defines key terms used in the Bill. This clause, along with the preceding two clauses, constitutes Part 1 of the Bill.
4. *Clause 4*, which commences Part 2 of the Bill, prohibits persons from entering into any arrangement that would have the effect of preventing competition within any market for goods or services. The prohibition is not limited to arrangements that would prevent competition only in the Island. Accordingly, any such arrangement would be within the scope of the clause, even if it is meant to be acted on outside the Island. The clause also specifies types of arrangements to which the prohibition particularly applies. Any arrangement that defies the prohibition is void to the extent of the defiance.
5. *Clause 5* prohibits conduct on the part of any person that amounts to abuse of a dominant position within any market in the Island for goods or services. It also sets out particular features of conduct any of which, if present, are certain to render the conduct an abuse of a dominant position. For the avoidance of doubt, the clause specifies what constitutes contravention of its subsection (1).
6. *Clause 6* defines the term “anti-competitive practice”. It also provides that an action taken pursuant to any enactment is eligible to constitute an “anti-competitive practice” unless the action’s authorising enactment specifically insulates the action from being so regarded. However, it is specifically provided that a breach of the relevant competition provisions applied to the Island by the Payment Services (Competition) Regulations 2015 constitutes an “anti-competitive practice”. Additionally, the clause empowers the Council of Ministers to amend by order the provision in respect of the aforementioned 2015 Regulations.
7. *Clause 7* expressly applies to public authorities the prohibition on engaging in an anti-competitive practice. This application is made subject to clause 8.
8. *Clause 8* empowers the Council of Ministers to, by regulations, grant exemptions from the prohibition of “anti-competitive practice” on the grounds of public policy. Any such regulations are subject to approval by Tynwald. The exemptions may be either absolute or subject to conditions, and may also be time limited. No such regulations may be made unless the Council of Ministers has consulted with and had regard to the views expressed to it by OFT and has published written

notice of its intention to do so. Changes in circumstances or failure of the exempted person to abide by the conditions of the exemption could lead to revocation or variation of the exemption, in either case done by the Council of Ministers. For this purpose, the Council of Ministers must keep under review the actions of the exempted party with a view to ensuring that the terms of the exemption are being complied with. Any proposed change to or revocation of the exemption must have been preceded by compliance with the rules of natural justice.

9. *Clause 9*, which is the first clause of Part 3 of the Bill, empowers OFT to carry out investigations. This investigative power is meant to be used to ascertain whether an anti-competitive practice is being carried out or the terms and conditions attached to an exemption issued under clause 8, or imposed under clause 25(5)(b) as a consequence of a merger, are being observed. It may also be used where OFT believes that the market is not functioning in the interests of consumers or the economy. OFT is required to make its own rules of procedure regarding the conduct of its investigations. The clause also empowers OFT to request and/or accept undertakings from people it has investigated or is investigating. The occasion for this would arise where OFT finds evidence of an anti-competitive practice but concludes that adherence to any alternative practice would redound to detriment of the Island's economy. The party being investigated may offer an undertaking to OFT and, should OFT accept the undertaking (which OFT is expressly authorised to do), thereby cause the investigation to be terminated.
10. *Clause 10* confers specific investigatory powers on OFT. OFT may by notice require a person to produce specified information, require a person to attend at a specified time and place for the purpose of being interviewed, or require a person to give any assistance relevant to the investigation that the person is in a position to provide. An officer authorised by OFT may obtain from a justice of the peace a warrant enabling the officer to search premises at which the officer has reasonable grounds to believe information relevant to the investigation is being stored. When executing any such warrant, the authorised officer must be accompanied by a constable and may be accompanied and assisted by any person whose expertise the authorised person considers pertinent. A person who, in the course of an investigation, is required to produce information is insulated from any obligation to supply that information if the person would have been entitled to refuse to produce it in the course of civil proceedings before the High Court. Any other default in compliance with a request may be the subject of an application to the High Court by the Attorney General, whereupon the High Court may make such order as it thinks fit to ensure that the default is made good. A person's failure to comply with a requirement imposed on the person under the clause is made an offence.
11. *Clause 11* empowers OFT to conduct joint investigations with any Department or Statutory Board that has regulatory powers, or with a competition authority in another jurisdiction (pursuant to a memorandum of understanding between OFT and that competition authority). The Council of Ministers is empowered to by order extend the powers under the Bill to any Department or Statutory Board,

- with any modifications it considers necessary. Such an order is subject to Tynwald approval, and the extension made by such an order will result in the extended powers' being held concurrently with OFT. The concurrent holding of powers will, the clause stipulates, require OFT and the other holder to consult with each other before any of them takes action in exercise of the powers.
12. *Clause 12* empowers OFT to either suspend or abandon an investigation once it reveals that an offence under the resulting Act may have been committed. It also provides that such a revelation obliges OFT to hand over the attendant evidence to the police or any other person that has responsibility for enforcement with respect to the offence in question. If an OFT investigation has been suspended, OFT may resume its investigation only upon having been notified that the criminal investigation has been completed.
 13. *Clause 13* empowers OFT to accept from any person an undertaking that it believes will correct an identified market malfunction or result in the discontinuance of an anti-competitive practice in which the person is engaging. OFT is required to signify its acceptance of the offered undertaking by notifying the offerer. The proposal to accept the offer of an undertaking must be published by OFT, as must the eventual acceptance of the undertaking. OFT must thereafter monitor whether the terms of the undertaking are being complied with. Variation of the undertaking is permitted if circumstances so warrant; also permitted is the release of the person from the undertaking if doing so is appropriate. Provision is also made for a new undertaking to supersede one that is no longer fit for purpose.
 14. *Clause 14*, which commences Part 4 of the Bill, empowers OFT to make an order (for any of specified purposes) where an investigation conducted by it under clause 9 concludes that a market is not functioning in the interests of consumers or the economy. The overriding objective of the order is to rectify the identified deficiency. Before making any such order, however, OFT must have made a decision regarding any undertaking offered to it under clause 13.
 15. *Clause 15* supplements clause 14 by delimiting the extra-territorial reach of an order under clause 14. For the order to have extra-territorial reach, it has to apply to someone with a British connection of one of the specified types ("a British person"). Once such a connection is present, the order will extend to a British person's relevant acts or omissions committed outside the Island.
 16. *Clause 16* stipulates that, before an order under clause 14 is made, OFT must publish a written notice that complies with listed specifications.
 17. *Clause 17* provides that failure to comply with an order under clause 14 is an offence triable on information. It specifically provides that this criminalisation does not limit the right to bring civil proceedings in respect of the said failure. It also empowers the Attorney General to make an application to the High Court in respect of the failure, in response to which the High Court may make an order requiring the default of compliance with the clause 14 order to be made good.

18. *Clause 18*, which commences Part 5 of the Bill, empowers OFT (or a Department or Statutory Board, either of which has powers concurrent with those of OFT) to impose disciplinary measures and/or penalties on a person who its investigation reveals – on a balance of probabilities – has engaged in an “anti-competitive practice”. These measures and penalties include the issuing of a public censure, the ordering of restitution and the imposition of financial penalties. Any such action taken may be appealed to the High Bailiff.
19. *Clause 19* empowers OFT (or a Department or Statutory Board with concurrent powers), with the consent of the Attorney General, to apply to the High Court for an injunction to restrain from engaging in an anti-competitive practice a person whom it believes (on reasonable grounds) is likely to so engage.
20. *Clause 20* empowers OFT to make regulations which set out the methodology to be applied in fixing penalties and restitution. Such regulations are required to provide a basis for penalties to be commuted for “whistle-blowers” (a term which the clause defines) and persons who admit their guilt at an early stage and thereafter co-operate with the investigation.
21. *Clause 21* empowers OFT, at its discretion, to submit to the Isle of Man Financial Services Authority (“the FSA”) a report detailing its belief that there is a need (in the interest of protecting consumers) for an individual to be disqualified as a director of a ‘person’ that is a body. This provision applies equally to bodies corporate and bodies unincorporate. On receipt of such a report, the FSA is empowered to take the necessary steps under the *Company Officers (Disqualification) Act 2009*. In proceedings pursuant to that last-mentioned Act, OFT is required to provide evidence in support of the FSA’s application for disqualification.
22. *Clause 22*, which commences Part 6 of the Bill, defines the concept of a “merger”. It also defines the concept of a “joint venture”.
23. *Clause 23* requires any two or more parties that propose a merger to notify OFT of the proposed merger before they take any action in furtherance of it. Such notification must be in the form and manner specified by OFT. Commencing a merger without complying with the notification requirement is an offence, triable summarily. However, liability in respect of such an offence may be discharged by paying a civil penalty. The amount and manner of payment of the civil penalty are to be prescribed in regulations made by the Council of Ministers and approved by Tynwald. Additionally, the Council of Ministers is empowered to take any steps it considers appropriate to mitigate the effects of a merger –
 - (a) that was completed without there having been prior notification to OFT; and
 - (b) in respect of which the Council of Ministers considers there to be exceptional reasons of public policy that demand such mitigation.
24. *Clause 24* sets out the procedure to be followed by OFT once it has been notified of a proposed merger. Specific actions that OFT is required to take are stipulated, depending on whether or not OFT believes the proposed merger could lead to a substantial lessening of competition in the market. If OFT considers the merger

unlikely to lead such lessening, it may authorise the parties to proceed with the merger without complying with any further procedural requirements. However, if OFT believes the merger likely to lead to such lessening, it must submit to the Council of Ministers a report of its findings. The report must set out the reasons for OFT's findings and details of any advice OFT has given to the parties to the proposed merger.

25. *Clause 25* sets out the powers of OFT on receipt of a merger report under clause 24. It confers on OFT the responsibility to conclusively determine whether or not the proposed merger is likely to lead to a substantial lessening of competition in the market. If the determination is that the proposed merger is not likely to do so, OFT must in writing notify the parties that they may proceed with the merger without further reference to OFT. However, if the determination is that the merger is likely to do so, then OFT must either authorise or forbid the merger. Before doing so, however, OFT may investigate the merger and (should it so investigate) must in writing inform the parties of its findings. That investigation may be carried out with the assistance of a third party or, alternatively, by a third party on behalf of OFT. The parties must be kept informed of all developments, including the identity of any third party engaged and the precise role the third party will play. Following the completion of this procedure, the merger that is determined to be unlikely to lead to the substantial lessening of competition in the market may be approved by OFT either unconditionally or subject to specified conditions. Written reasons for any decision taken must be given to the parties to the proposed merger. OFT must notify the Council of Ministers of any conditions subject to which it has approved the proposed merger, and is responsible for enforcing those conditions.
 26. *Clause 26* authorises the Council of Ministers to overrule OFT's decision in respect of a merger or proposed merger. This can only be done for exceptional and compelling reasons of public policy, and must be preceded by consultation with OFT.
 27. *Clause 27* stipulates that any report produced under Part 6 must be submitted to the Council of Ministers and must be laid before Tynwald. Such reports (which invariably will be produced by OFT) must also be published in such manner as OFT considers appropriate. In preparing reports, OFT is required to consider the extent to which it is necessary to include commercially sensitive information or information about the private affairs of an individual. If the inclusion of any such information is considered necessary, it may only be included in the version of the report submitted to Tynwald. That information must be redacted from the version of the report that is intended for general publication.
 28. *Clause 28*, which commences Part 7 of the Bill, makes consequential amendments to the *Fair Trading Act 1996*.
 29. *Clause 29* makes consequential amendments to the *Company Officers (Disqualification) Act 2009*.
- Clause 30* provides for the saving of exclusion orders made under section 8(2) of the *Fair Trading Act 1996*.

30. The resulting Act is not expected to result in any additional expenditure being incurred or the need to acquire additional human resources. On the contrary, the resulting Act stands to accrue to the benefit of the general revenue of the Island *via* the imposition (in appropriate cases) of financial penalties for which the Bill provides.
31. In the opinion of the member moving the Bill, its provisions are compatible with the Convention rights within the meaning of the *Human Rights Act 2001*.



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COMPETITION BILL 2020

1 **A BILL** to make provision about competition and the abuse of a dominant
 2 position in the market; to empower the Isle of Man Office of Fair Trading to
 3 collaborate with competition authorities in other jurisdictions to address issues
 4 and behaviour in those other jurisdictions that affect the Island; to permit the Isle
 5 of Man Office of Fair Trading to carry out with regulators concurrent
 6 investigations into Isle of Man regulated markets; to repeal and replace Part 2 of
 7 the Fair Trading Act 1996; to make provision for mergers; and for connected
 8 purposes.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and
 consent of the Council and Keys in Tynwald assembled, and by the authority of the
 same, as follows:—

9

PART 1 – INTRODUCTORY

10

1 Short title

11

The short title of this Act is the Competition Act 2020.

12

2 Commencement

13

(1) This Act (except sections 1 and 3 and this section) will come into operation
 14 on such day or days as OFT may by order appoint.

14

15

(2) An order under subsection (1) may make such consequential, incidental,
 16 supplemental and transitional provisions as appear to OFT to be necessary
 17 or expedient for the purposes of the order.

16

17

18

3 Interpretation

19

(1) In this Act —

20

“**authorised officer**” means an officer appointed by OFT for the purposes
 21 of this Act;

21

22

“**distortion**” means a state of affairs in which prices or supply are different
 23 from what they would be in a competitive market;

23

24

“**enforcing authority**” has the meaning given in section 12(1)(b)(ii);



1 “FSA” means the Isle of Man Financial Services Authority¹;

2 “information” includes a document and any other instructive material;

3 “justice” means a justice of the peace;

4 “market” means an economic activity related to the supply of goods or

5 services within the Island provided by persons, irrespective of

6 whether they are, or any of them is, present or based in the Island;

7 “merger” has the meaning given in section 22;

8 “OFT” means the Isle of Man Office of Fair Trading²;

9 “police” means the Isle of Man Constabulary;

10 “public authority” has the meaning given in section 6(1) of the *Freedom of*

11 *Information Act 2015* and, for the purpose of that definition,

12 “publicly-owned company” has the meaning given in section 6(2)

13 of that Act;

14 “restriction” means the presence of conditions that have the effect of

15 limiting access to a given market.

- 16 (2) Wherever in this Act a notice is required to be published and no specific
- 17 method of publication is stipulated, the person required to publish the
- 18 notice must do so in such manner and for such duration as the person
- 19 considers likely to bring the notice to the attention of affected persons.

20 PART 2 – ANTI-COMPETITIVE PRACTICE

21 4 Prohibition on preventing competition

- 22 (1) A person must not enter into any arrangement which—
- 23 (a) may affect trade within the Island; and
- 24 (b) has as its object or effect the prevention, restriction or distortion of
- 25 competition within any market.

26 This subsection applies whether the arrangement is to be acted upon in

27 the Island or elsewhere and is subject to the other provisions of this Part.

- 28 (2) Subsection (1) applies, in particular, to arrangements between persons
- 29 which —
- 30 (a) directly or indirectly fix purchase or selling prices or any other
- 31 trading conditions;
- 32 (b) limit or control production, supply, markets, technical
- 33 development or investment;
- 34 (c) share markets or sources of supply;

¹ A Statutory Board in accordance with Schedule 1 to the *Statutory Boards Act 1987*

² *Ibid.*



- 1 (d) apply dissimilar conditions to equivalent transactions with other
2 trading parties, thereby placing them at a competitive
3 disadvantage; or
- 4 (e) make the conclusion of contracts subject to the acceptance by the
5 other parties of supplementary obligations which, by their nature
6 or according to commercial usage, have no connection with the
7 subject of the contracts.
- 8 (3) An arrangement is void to the extent that it comprises or includes an
9 arrangement prohibited by subsection (1).
- 10 (4) For the purposes of this Act, a person is considered to be in contravention
11 of subsection (1) if the person is a party to an arrangement which
12 subsection (1) prohibits.

13 5 Prohibition of abuse of a dominant position

- 14 (1) Subject to the provisions of this Part, any conduct on the part of one or
15 more persons which constitutes the abuse of a dominant position within
16 any market is prohibited.
- 17 (2) Conduct may, in particular, constitute such an abuse if it consists of –
- 18 (a) directly or indirectly imposing unfair purchase or selling prices or
19 other unfair trading conditions;
- 20 (b) limiting production, supply, markets or technical development to
21 the prejudice of consumers or any class or description of
22 consumers;
- 23 (c) applying dissimilar conditions to equivalent transactions with
24 other trading parties, thereby placing them at a competitive
25 disadvantage; or
- 26 (d) making the conclusion of contracts subject to the acceptance by the
27 other parties of supplementary obligations which, by their nature
28 or according to commercial usage, have no connection with the
29 subject of the contracts.
- 30 (3) For the purposes of this Act, a person is considered to be in contravention
31 of subsection (1) if the person engages in conduct which subsection (1)
32 prohibits.

33 6 Meaning of “anti-competitive practice”

- 34 (1) In this Act, “**anti-competitive practice**” means either or both of the
35 following, as the context may require –
- 36 (a) conduct that tends to prevent, restrict or distort competition,
37 including but not limited to conduct specified in section 4;
- 38 (b) abuse of a dominant position, including but not limited to conduct
39 specified in section 5.

- 1 (2) Conduct engaged in pursuant to any enactment may constitute an anti-
2 competitive practice unless the enactment disapplies or limits, in whole or
3 in part, the provisions of this Act.
- 4 (3) A breach of the relevant competition provisions applied to the Island by
5 the Payment Services (Competition) Regulations 2015³ constitutes an anti-
6 competitive practice for the purposes of subsection (1).
- 7 (4) The Council of Ministers may by order amend subsection (3).
8 Tynwald procedure – negative.

9 **7 Anti-competitive practice**

10 All persons participating in a market are prohibited from engaging in an anti-
11 competitive practice, irrespective of their nationality or ownership status.

12 This prohibition is subject to the power of the Council of Ministers under section
13 8.

14 **8 Regulations in respect of exemptions from “anti-competitive practice”**

15 (1) The Council of Ministers may make regulations which provide for
16 exemptions, on the grounds of public policy specified in subsection (4),
17 from the prohibition of anti-competitive practice imposed by section 7.

18 Tynwald procedure – approval required.

19 (2) Without limiting subsection (1), regulations under this section may
20 exempt any one or more of the following –

- 21 (a) a sector of the economy;
22 (b) a specific person;
23 (c) specific practices in general;
24 (d) specific practices by a specific person.

25 (3) Regulations under this section may do either or both of the following –

- 26 (a) provide for an exemption to be absolute or subject to conditions;
27 (b) be time limited.

28 (4) In order to make regulations under this section, the Council of Ministers
29 must be satisfied on reasonable grounds that the exemption contained in
30 the regulations –

- 31 (a) is likely to produce a better outcome for consumers or the economy
32 of the Island;
33 (b) is necessary for exceptional and compelling reasons of public
34 policy; or
35 (c) satisfies paragraphs (a) and (b).

³ S.D. 2015/0205

- 1 (5) The Council of Ministers must seek and have regard to the views of OFT
2 prior to making regulations under this section.
- 3 (6) The Council of Ministers may not repeal or vary an exemption unless it
4 has published written notice of its intention to do so. Such publication
5 must be —
- 6 (a) for a period of not less than 3 months before the date of the
7 intended repeal or variation; and
- 8 (b) in such a manner as to ensure that it comes to the attention of
9 persons likely to be affected by the repeal or variation.
- 10 (7) Where a person exempted under this section contravenes any condition
11 that, in accordance with a provision inserted in regulations by virtue of
12 subsection (3)(a), is attached to the exemption, the Council of Ministers
13 may repeal or vary the exemption either of its own accord or at the behest
14 of OFT.
15 This is subject to subsection (8).
- 16 (8) Where the Council of Ministers proposes to repeal or vary an exemption
17 under subsection (7), either of its own accord or at the behest of OFT, it
18 must, before doing so, —
- 19 (a) forthwith furnish the exempted person with, and publish, a written
20 notice —
- 21 (i) stating its intention to repeal or vary the exemption;
22 (ii) stating the reasons for that intention; and
23 (iii) advising of the time within which and the method by which
24 the exempted person may make representations to the
25 Council of Ministers before the repeal or variation takes
26 effect;
- 27 (b) afford the exempted person the opportunity to make
28 representations in the manner and within the time set out in the
29 notice; and
- 30 (c) take into account any representations made.
- 31 (9) Where, following its determination under subsection (8), the Council of
32 Ministers decides to repeal or vary an exemption, it must —
- 33 (a) in writing notify the exempted person of the decision and, where
34 applicable, the extent of the variation; and
- 35 (b) publish a written notice specifying the details referred to in
36 paragraph (a).

PART 3 – INVESTIGATIONS

9 Investigations

- (1) OFT may investigate any matter where it has reasonable grounds to suspect that a person –
- (a) has been engaging, or intends to engage, in an anti-competitive practice;
 - (b) has been breaching, or intends to breach, any condition –
 - (i) attached to an exemption; or
 - (ii) that OFT has imposed, under section 25(5)(b), as a consequence of a merger; or
 - (c) satisfies paragraphs (a) and (b),
- and must produce a written report of its findings during the investigation.
- (2) OFT may investigate any market where it believes, on reasonable grounds, that the market is not functioning in the interests of consumers or the economy. Such an investigation may be either of OFT's own volition or in accordance with subsection (3).
- (3) The Council of Ministers may request that OFT undertake an investigation under subsection (2).
- (4) OFT must make rules of procedure in respect of the carrying out of investigations under this section.
- Tynwald procedure – approval required.
- (5) If the outcome of an investigation indicates that –
- (a) an anti-competitive practice has been (or is likely to be) engaged in; but
 - (b) forbearing to engage in the practice would provide a worse outcome for consumers or the economy of the Island,
- OFT may recommend to the Council of Ministers that an exemption be granted.
- (6) If, at any point during the course of an investigation, the person being investigated offers to OFT an undertaking under section 13, OFT may accept this undertaking and terminate the investigation.
- (7) In this section, any power to investigate that is conferred on OFT may be exercised –
- (a) by OFT directly and exclusively;
 - (b) exclusively by a third party engaged by OFT; or
 - (c) jointly by OFT and a third party engaged by OFT,

1 but, for the avoidance of doubt, neither the power under subsection (4) nor
2 the power under subsection (5) may be exercised by anyone other than
3 OFT.

4 **10 Investigatory powers**

- 5 (1) OFT may, by notice in writing, require —
- 6 (a) a body corporate to furnish an authorised officer with any
7 information required for the purposes of an investigation, within
8 such timescale as may be specified; or
- 9 (b) an individual (whether identified by name or by position) to attend
10 at a specified place and time to be interviewed and answer
11 questions.
- 12 (2) An authorised officer may apply to a justice for a warrant to enter and
13 search, in the course of an investigation under this Part, any premises in
14 which the authorised officer has reasonable grounds to believe
15 information pertinent to the investigation is being stored, and such
16 application must set out the grounds on which it is based.
- 17 (3) The justice to whom an application under subsection (2) is made must
18 issue the warrant if the justice is satisfied that there are sufficient grounds
19 to do so.
- 20 (4) An authorised officer, acting pursuant to a warrant issued by a justice
21 under subsection (3), —
- 22 (a) may enter any premises specified in the warrant;
- 23 (b) may inspect or seize any information found on the premises,
24 provided the information appears to be relevant to the
25 investigation;
- 26 (c) may, with or without the help of any individual on the premises,
27 access any information stored electronically (whether or not with
28 the use of cloud technology);
- 29 (d) may require any individual on the premises to provide an
30 explanation of any information or state where it may be found;
- 31 (e) must be accompanied by a constable; and
- 32 (f) may be accompanied by such other person who, by reason of the
33 person's expertise, is reasonably necessary to assist the authorised
34 officer.
- 35 (5) Nothing in this section compels a person to supply any information which
36 the person would be entitled to refuse to produce or give in civil
37 proceedings before the High Court.
- 38 (6) If a person makes default in complying with a notice under subsection (1),
39 the High Court may, on the application of the Attorney General, make
40 such order as the court thinks fit for requiring the default to be made good,

1 and any such order may provide that all the costs or expenses of and
2 incidental to the application will be borne by the person in default or by
3 any officers of a company or other body who are responsible for its default.

4 (7) Subject to subsections (5) and (6), a body corporate —

5 (a) commits an offence if it fails to comply with a requirement imposed
6 under subsection (1)(a); and

7 (b) is liable on conviction to a fine.

8 (8) Subject to subsections (5) and (6), an individual commits an offence if the
9 individual —

10 (a) in defiance of a requirement under this section imposed on the
11 individual by an authorised officer —

12 (i) fails to provide any information, or an explanation of any
13 information;

14 (ii) provides any information, or an explanation of any
15 information, that the individual knows or reasonably
16 suspects to be false or misleading in a material respect; or

17 (iii) obstructs an authorised officer in the course of an
18 investigation; or

19 (b) destroys, conceals, alters, or removes from the Island, any
20 information that the individual knows, or ought reasonably to
21 suspect, is likely to be required in relation to an investigation or
22 possible investigation.

23 (9) An individual who commits an offence under subsection (8) is liable —

24 (a) on summary conviction, to a fine not exceeding level 5 on the
25 standard scale; or

26 (b) on conviction on information, to a fine or to custody for a term not
27 exceeding 2 years.

28 (10) In this section, “premises” includes both domestic premises and business
29 premises.

30 **11 Joint investigations**

31 (1) OFT may conduct joint investigations with —

32 (a) any Department or Statutory Board which has regulatory powers;
33 or

34 (b) pursuant to a memorandum of understanding between it and OFT
35 —

36 (i) a competition authority; or

37 (ii) an authority which has regulatory powers,
38 in another jurisdiction.

- 1 (2) Joint investigations may be carried out equally or with a single party
2 leading and the other supporting, and the decision on which of those
3 methods to use must be made on a case by case basis by OFT and the
4 Department or Statutory Board concerned.
- 5 (3) The Council of Ministers may by order extend powers under this Act to
6 any Department or Statutory Board, and such extension may be subject to
7 such modifications as the Council of Ministers deems necessary.
8 This is subject to subsection (4).
9 Tynwald procedure – approval required.
- 10 (4) Where an extension under subsection (3) is granted –
11 (a) it may be limited in scope; and
12 (b) the Department or Statutory Board will hold concurrently with
13 OFT the powers so extended.
- 14 (5) OFT and any Department or Statutory Board holding concurrent powers
15 under subsection (4) must consult each other before taking any action in
16 relation to matters covered by those concurrent powers.

17 **12 Procedure where offence detected on investigation**

- 18 (1) Where an investigation under this Part reveals evidence that an offence
19 under any enactment may have been committed, OFT –
20 (a) may either suspend or abandon the investigation; and
21 (b) must, upon acting in accordance with paragraph (a), hand over the
22 evidence to –
23 (i) the police; or
24 (ii) if another person is by law responsible for enforcing the
25 provisions breach of which constitutes the offence (“the
26 enforcing authority”), the enforcing authority.
- 27 (2) After having acted in accordance with subsection (1), OFT may not resume
28 its investigation unless –
29 (a) any investigation commenced by the police or the enforcing
30 authority (“the criminal investigation”) has been completed; and
31 (b) OFT has received from the police or the enforcing authority, as the
32 case may be, written notification that the criminal investigation has
33 been completed.

34 **13 Undertakings relating to anti-competitive practices and failing markets**

- 35 (1) Where it appears to OFT that –

1 (a) there are reasonable grounds for believing that any person is
2 engaging, or has engaged, in a course of conduct which constitutes
3 an anti-competitive practice; or

4 (b) a market is not functioning in the interests of consumers or the
5 economy,

6 OFT may accept an undertaking offered by any person that OFT is
7 satisfied is sufficiently connected with the course of conduct or market
8 malfunction in question. OFT must signify its acceptance of the
9 undertaking by giving written notice to the person by whom it is offered.

10 This is subject to subsection (2).

11 (2) OFT must not accept an undertaking offered under subsection (1) unless

12 —

13 (a) it is satisfied that the honouring of the undertaking would, as the
14 case may be, —

15 (i) sufficiently modify the course of conduct in question so as
16 to remove its anti-competitive effects; or

17 (ii) remedy or prevent effects adverse to the interests of
18 consumers or the economy; and

19 (b) it has —

20 (i) arranged for the publication of a written notice complying
21 with subsection (3); and

22 (ii) considered any representations made to it in accordance
23 with the written notice.

24 (3) A written notice under subsection (2)(b)(i) must —

25 (a) state that OFT is proposing to exercise its power under subsection
26 (1);

27 (b) identify the course of conduct or market failure which prompts the
28 exercise of that power;

29 (c) identify the person who OFT believes is engaging, or has engaged,
30 in that course of conduct;

31 (d) in respect of a course of conduct, identify the goods or services in
32 relation to which OFT believes the person is engaging, or has
33 engaged, in that course of conduct;

34 (e) in respect of a course of conduct, specify the effects (identified by
35 OFT as adverse to consumers or the economy) which that course of
36 conduct may now or in future have;

37 (f) in respect of market failure, set out the reasons why OFT believes
38 that the market is not functioning in the interests of consumers or
39 the economy;

40 (g) set out the terms of the undertaking which OFT is proposing to
41 accept;

- 1 (h) identify the person who is offering to give the undertaking; and
- 2 (i) specify the deadline by which representations about the proposed
- 3 undertaking must be made to OFT.
- 4 (4) Once OFT has considered any representation made to it in accordance
- 5 with a written notice under subsection (2)(b)(i), that subsection does not
- 6 apply to the acceptance of a modified version of the undertaking.
- 7 (5) OFT must —
- 8 (a) once it has accepted an undertaking under this section, arrange for
- 9 the undertaking to be published in such manner as appears to it to
- 10 be appropriate;
- 11 (b) keep under review the carrying out of any such undertaking and
- 12 from time to time consider whether —
- 13 (i) by reason of any change of circumstances, the undertaking
- 14 is no longer appropriate; and
- 15 (ii) either —
- 16 (A) the person concerned can be released from the
- 17 undertaking; or
- 18 (B) the undertaking needs to be varied or superseded by
- 19 a new undertaking; and
- 20 (c) if it appears to OFT that the person by whom an undertaking was
- 21 given has failed to carry it out, give that person written notice of
- 22 that fact.
- 23 (6) If at any time OFT concludes under subsection (5)(b) —
- 24 (a) that any person can be released from an undertaking; or
- 25 (b) that an undertaking needs to be varied or superseded by a new
- 26 undertaking,
- 27 it must give written notice to that person stating that the person is so
- 28 released, or specifying the variation or, as the case may be, the new
- 29 undertaking which in its opinion is required.
- 30 OFT must publish any written notice it gives under this subsection.
- 31 (7) Where a written notice is given under subsection (6) specifying a variation
- 32 or new undertaking, the notice must state the change of circumstances by
- 33 virtue of which the written notice is given.
- 34 (8) OFT may at any time, by written notice given to the person concerned (a
- 35 “subsection (8) notice”) —
- 36 (a) agree to the continuation of an undertaking in relation to which it
- 37 has given written notice under subsection (6) (a “subsection (6)
- 38 notice”) specifying a variation or new undertaking; or
- 39 (b) accept a new or varied undertaking which is offered by that person
- 40 as a result of a subsection (6) notice.

- 1 (9) OFT must publish a subsection (8) notice.

2 PART 4 – ORDERS FOLLOWING AN INVESTIGATION

3 14 Orders following report on an investigation

- 4 (1) In any case where an investigation under section 9 concludes that a market
5 is not functioning in the interests of consumers or the economy, OFT may,
6 if it thinks fit, make an order under this section. Such an order must
7 contain directions to a specified person or persons.

8 Tynwald procedure – approval required.

- 9 (2) An order under this section may set out a scheme for the purposes of
10 remedying or preventing any adverse effects which are specified in the
11 report required by section 9(1).

12 This is subject to subsection (3).

- 13 (3) No order may be made by virtue of subsection (1) until OFT has made a
14 decision in relation to any undertaking offered pursuant to section 13.

15 15 Orders under section 14 – supplemental

- 16 (1) Nothing in an order under section 14 has effect so as to apply to any person
17 in relation to the person's conduct outside the Island unless that person is
18 –

19 (a) a British citizen, a British Overseas Territories citizen, a British
20 Overseas citizen or a British National (Overseas);

21 (b) a body corporate incorporated under the law of the Island; or

22 (c) a person carrying on business in the Island, either alone or in
23 partnership with one or more other persons.

- 24 (2) An order under section 14 may extend so as to prohibit the carrying out of
25 arrangements already in existence on the date on which the order is made.

- 26 (3) Directions in an order under section 14 may mandate a specified person
27 or the holder for the time being of a specified office in any company or
28 association –

29 (a) to take such steps within the person's functions (as may be
30 specified or described in the directions) for the purpose of carrying
31 out, or securing compliance with, the order; or

32 (b) to do or refrain from doing anything so specified or described
33 which the person might be required by the order to do or refrain
34 from doing,

35 and may authorise OFT to vary or revoke any directions so given.

16 Procedure for orders under section 14

- 1 (1) Before making an order under section 14, OFT must publish a written
2 notice —
3
4 (a) stating its intention to make the order;
5 (b) indicating the nature of the provisions to be embodied in the order;
6 and
7 (c) stating that
8 (i) any person whose interests are likely to be affected by the
9 order, and who is desirous of making representations in
10 respect of it, should make those representations in writing
11 (ii) those representations must specify the person's interest and
12 the grounds on which the person wishes to make
13 representations; and
14 (iii) the representations must be made before a date specified in
15 the notice (that date being not earlier than the end of the
16 period of 30 days beginning with the day on which the
17 notice is published).
- 18 (2) OFT —
19 (a) must not make an order under section 14 before the date specified
20 in the notice in accordance with subsection (1)(c)(iii); and
21 (b) must consider any representations duly made to it in accordance
22 with the notice before that date.

17 Enforcement of orders under section 14

- 23 (1) A person who fails to comply with an order under section 14 commits an
24 offence and is liable on conviction on information to a fine.
25
- 26 (2) Nothing in subsection (1) —
27 (a) limits any right of any person to bring civil proceedings in respect
28 of any contravention or apparent contravention of any such order,
29 and (without prejudice to the generality of the preceding words)
30 compliance with any such order is enforceable by civil proceedings
31 at the suit of the Attorney General for an injunction or for any other
32 appropriate relief; or
33 (b) prevents OFT (or any Department or Statutory Board with
34 concurrent powers) from taking any of the actions specified in
35 section 18(2).
- 36 (3) If any person makes default in complying with any direction contained in
37 an order made under section 14, the High Court may, on the application
38 of the Attorney General, make an order requiring that person to make
39 good the default within a time specified in the order, or, if the direction
40 related to anything to be done in the management or administration of a

1 company or association, requiring the company or association or any
2 officer of it to do so.

- 3 (4) Any order of the Court under subsection (3) may provide that all the costs
4 or expenses of or incidental to the application for the order must be borne
5 by any person in default or by any officers of a company or association
6 who are responsible for its default.

7 PART 5 – SANCTIONS

8 18 Disciplinary measures and penalties

- 9 (1) Where, following an investigation, OFT (or a Department or Statutory
10 Board with concurrent powers) is satisfied, on a balance of probabilities,
11 that a person has done something which constitutes an anti-competitive
12 practice, it may take any of the actions specified in subsection (2).

13 This section does not limit the possibility of criminal proceedings under
14 section 17(1).

- 15 (2) The actions referred to in subsection (1) are –
16 (a) issue a public censure;
17 (b) impose financial penalties;
18 (c) order restitution;
19 (d) provide a recommendation to the FSA that it consider disqualifying
20 the directors or other officers, or any of them; or
21 (e) in the case of an anti-competitive practice which is a breach of an
22 exemption granted by the Council of Ministers, recommend to the
23 Council of Ministers that such exemption be repealed or varied.
24 (3) Any action taken under subsection (1) may be appealed to the High Bailiff,
25 who may hear the appeal *in camera*.

26 19 Injunctions

- 27 (1) OFT (or a Department or Statutory Board with concurrent powers) may,
28 if satisfied on reasonable grounds that a person is likely to engage in acts
29 which are anti-competitive, apply to the High Court for an injunction.

30 This power is subject to subsection (2).

- 31 (2) The power under subsection (1) may not be exercised without the consent
32 of the Attorney General.

33 20 Regulations on penalties and restitution

- 34 (1) OFT may make regulations which set out the methodology to be applied
35 in fixing penalties and restitution.

- 1 Tynwald procedure – negative.
- 2 (2) Regulations under this section must provide a basis for penalties to be
3 commuted for –
- 4 (a) whistle-blowers; and
- 5 (b) those who, at an early stage in an investigation, admit guilt and co-
6 operate with the investigation.
- 7 (3) In this section, “whistle-blower” means a person who informs on an anti-
8 competitive practice.

9 **21 Disqualification of directors**

- 10 (1) OFT may, when it deems it appropriate based on its findings following an
11 investigation, prepare and submit to the FSA a report detailing the need,
12 in the interest of protecting consumers, for an individual to be disqualified
13 as a director or other officer of a person that is a body (whether corporate
14 or unincorporate).
- 15 (2) Upon receipt of a report under subsection (1), the FSA may, at its
16 discretion, take the necessary steps in accordance with section 3 of the
17 *Company Officers Disqualification Act 2009* to have the individual
18 disqualified as a director or other officer.
- 19 This is subject to subsection (3).
- 20 (3) In proceedings occasioned by the FSA’s taking the steps referred to in
21 subsection (2), OFT must provide evidence in support of the FSA’s
22 application for disqualification.

23 **PART 6 – MERGERS**

24 **22 Meaning of “merger”**

- 25 (1) A “merger” occurs for the purposes of this Act when a person, or an
26 individual who controls a person, directly or indirectly acquires or
27 establishes control of another person or the business of another person.
- 28 (2) Control of a business or person may be direct or indirect and exists if
29 decisive influence is capable of being exercised in respect of it.
- 30 (3) In determining whether decisive influence exists, all relevant facts and
31 circumstances of the case must be taken into account.
- 32 This is in addition to the requirement to take into account the ostensible
33 effect in law of any document, transfer, assignment or other instrument,
34 act or arrangement.
- 35 (4) A merger also occurs for the purposes of this Act –
36 (a) if –

- 1 (i) a person acquires the whole or a substantial part of the
2 assets of another person; and
- 3 (ii) the result of the acquisition is to place the acquiring person
4 in a position to replace or substantially replace the other
5 person in the business in which it was engaged immediately
6 before the acquisition; or
- 7 (b) if a joint venture is created.

8 (5) A joint venture is created when a business previously carried out
9 independently by two or more persons, or a new business, is carried on
10 jointly by those two or more persons, whether or not in partnership or by
11 means of their joint control of, or ownership of shares in the capital of, a
12 body corporate.

13 (6) Without prejudice to the generality of the foregoing, a merger may —

- 14 (a) be achieved in any manner, including —
- 15 (i) by purchase, lease, acquisition of shares or assets, or by
16 some other disposition or arrangement or by operation of
17 law; or
- 18 (ii) by amalgamation of or other combination between persons
19 or their businesses,

20 and whether or not the parties to the merger, or their business or
21 assets, thereafter maintain identities which are distinct;

- 22 (b) be effected by a single transaction or by a series of two or more
23 transactions; and
- 24 (c) take place whether or not any property is transferred.

25 (7) References in this section to a person or business are references to the
26 whole or any part of the person or business.

27 (8) OFT may by order amend the definition of “merger”.

28 Tynwald procedure – approval required.

29 **23 Notification of proposed merger**

30 (1) Whenever —

- 31 (a) any two or more parties propose to merge; and
- 32 (b) a financial threshold or other economic criterion, prescribed by
33 OFT by means of an order that specifies the relevant value to which
34 the threshold or criterion relates, is likely to be met by the proposed
35 merger,

36 the parties must, in the form and manner specified by OFT, notify OFT of
37 the proposed merger before it is completed.

38 Tynwald procedure – approval required.

39 (2) Where —

- 1 (a) a merger is completed without the parties' to it having notified OFT
2 in accordance with subsection (1); and
- 3 (b) the Council of Ministers considers there to be exceptional and
4 compelling reasons of public policy that make doing so desirable,
5 the Council of Ministers may take steps it considers appropriate to
6 mitigate the effects of the merger.
- 7 (3) OFT may impose on each party to a merger who contravenes subsection
8 (1) a fine not exceeding 10% of the party's annual global turnover for the
9 immediately preceding financial year, provided that
- 10 (a) a hearing into the contravention has been held —
11 (i) in accordance with rules of procedure made by OFT and
12 approved by Tynwald; and
13 (ii) at which the party has been afforded the opportunity to
14 make representations on its behalf and to be represented;
- 15 (b) the evidence presented at the hearing satisfies OFT on a balance of
16 probabilities that the contravention occurred;
- 17 (c) the party is afforded and advised of the opportunity to appeal the
18 finding that it contravened subsection (2), or the fine imposed by
19 OFT on the basis of such contravention, or both, and either —
20 (i) an appeal is not filed within the permitted time of which
21 OFT has informed the party; or
22 (ii) an appeal filed by the party has been heard and has been
23 unsuccessful.
- 24 (4) In this section and in sections 8(4)(b) and 26, "exceptional and compelling
25 reasons of public policy" are public policy reasons that are prescribed by
26 order made by the Council of Ministers.
27 Tynwald procedure – approval required.

28 **24 OFT procedure following merger notification**

- 29 (1) Upon receipt of a notification of a proposed merger under section 23, OFT
30 must make an initial assessment of whether the proposed merger could
31 lead to a substantial lessening of competition in the market.
- 32 (2) If OFT assesses that the proposed merger is not likely to lead to a
33 substantial lessening of competition in the market, it must so advise the
34 parties in writing. The parties will thereafter be free to merge without
35 further reference to OFT.
- 36 (3) If OFT assesses that the proposed merger could lead to a substantial
37 lessening of competition in the market, it must —
38 (a) so advise the parties in writing; and

(b) require the parties to produce evidence that OFT considers relevant to the process of determining whether the proposed merger is likely to do so.

(4) If, following production by the parties of the evidence requested under subsection (3), OFT determines that the proposed merger is unlikely to lead to a substantial lessening of competition in the market, OFT –

(a) must, following discussions with the parties, in writing notify them that it has no objection to the proposed merger; and

(b) where OFT considers that there are exceptional and compelling reasons of public policy that the Council of Ministers need to consider with respect to the merger, must submit to the Council of Ministers a report on the proposed merger, setting out –

(i) why OFT considers the proposed merger unlikely to lead to a substantial lessening of competition in the market; and

(ii) in detail, any advice that OFT has given to the parties.

25 Power of OFT to approve or forbid merger

(1) If, following production by the parties of the evidence requested under section 24(3), OFT determines that the proposed merger is likely to lead to a substantial lessening of competition in the market, it must –

(a) either approve or forbid the proposed merger;

(b) in writing notify the parties of its decision in this regard; and

(c) lay this notification before Tynwald.

This is subject to subsections (2) to (8).

(2) Before approving or forbidding the proposed merger in accordance with subsection (1), OFT may investigate the proposed merger, but must not commence its investigation unless it has notified the parties of its intention to investigate.

(3) OFT may engage the services of a third party, whom it may request to either assist it in the investigation or carry out the investigation on its behalf.

(4) Where it does investigate the proposed merger, OFT must, –

(a) in writing, advise the parties beforehand of the identity of the investigator; and

(b) in due course, advise the parties of the outcome of the investigation.

(5) If, following completion of an investigation under subsection (2), OFT decides to approve the proposed merger, it has the following two options –

(a) to approve the merger unconditionally; or

- 1 (b) to approve it subject to conditions.
- 2 (6) OFT must, in writing, advise the parties which of the options in subsection
- 3 (5) it decides to exercise and of the reasons for its decision.
- 4 (7) Where OFT –
- 5 (a) approves a proposed merger subject to conditions; and
- 6 (b) considers that there are exceptional and compelling reasons of
- 7 public policy that the Council of Ministers need to consider with
- 8 respect to the merger,
- 9 it must advise the Council of Ministers of those conditions.
- 10 (8) OFT is responsible, in accordance with section 9(1)(b)(ii), for enforcing the
- 11 conditions which it has imposed under subsection (5)(b).
- 12 (9) In any event, OFT must make a decision under subsection (1) within 3
- 13 months of having received notification of a proposed merger in
- 14 accordance with section 23.
- 15 (10) Subject to this section and section 24, OFT must make rules of procedure
- 16 in respect of the carrying out of investigations under this Part.
- 17 Tynwald procedure – laying only.
- 18 (11) Written notification that OFT forbids a proposed merger is to be deemed
- 19 to be an order under section 14 and, if the parties merge in defiance of
- 20 OFT’s prohibition against doing so, –
- 21 (a) the parties commit an offence under section 17; and
- 22 (b) the purported merger, for all purposes in law, has no effect and is
- 23 to be deemed to never have occurred.

24 **26 Power of Council of Ministers to overrule OFT’s decision on merger**

- 25 (1) Subject to subsection (2), the Council of Ministers –
- 26 (a) may overrule OFT’s decision under section 24(4) or 25;
- 27 (b) on exercising the power under paragraph (a), must issue a direction
- 28 that –
- 29 (i) requires the parties to the merger or proposed merger to
- 30 take any specified action or refrain from taking any
- 31 specified action; or
- 32 (ii) in the case of a proposed merger, forbids it.
- 33 (2) The Council of Ministers may not exercise its power under subsection (1)
- 34 unless –
- 35 (a) it has consulted with OFT and the parties to the merger or proposed
- 36 merger;
- 37 (b) no more than 6 weeks have elapsed since OFT made the decision
- 38 referred to in subsection (1)(a);

- 1 (c) it considers there to be exceptional and compelling reasons of
2 public policy that make it desirable to do so; and
- 3 (d) it reasonably considers that the provisions of the direction under
4 subsection (1)(b) are necessary and proportionate for the purpose
5 of preventing, remedying or mitigating those public policy
6 concerns.
- 7 (3) Any direction issued under subsection (1)(b), including any variation of
8 any such direction, must —
- 9 (a) state —
- 10 (i) the date on which it comes into force;
- 11 (ii) the reasons for making or varying the direction; and
- 12 (iii) the possible consequences for not complying with the
13 direction; and
- 14 (b) provide information about how to —
- 15 (i) apply for the direction to be varied or revoked;
- 16 (ii) appeal the issue of the direction.
- 17 (4) Where, in accordance with subsection (2)(a), the Council of Ministers
18 consults OFT in respect of a merger or proposed merger, —
- 19 (a) OFT must publish the advice it gives to the Council of Ministers;
20 and
- 21 (b) the Council of Ministers must publish its reasons for overruling or
22 forbearing to overrule OFT's decision.
- 23 (5) A direction issued by the Council of Ministers under subsection (1)(b)(ii)
24 is to be deemed to be an order under section 14 and, if the parties merge
25 in defiance of the direction —
- 26 (a) the parties commit an offence under section 17; and
- 27 (b) the purported merger, for all purposes in law, has not effect and is
28 to be deemed to never have occurred.

29 **27 Publication of reports**

- 30 (1) Any report produced by OFT under this Part must be submitted to the
31 Council of Ministers and must be laid before Tynwald as soon as
32 practicable after the report is completed.
- 33 (2) Any such report must be published in such manner as OFT considers
34 appropriate.
- 35 (3) When preparing a report, OFT must consider the extent to which it is
36 necessary to include information which —
- 37 (a) is commercially sensitive; or
- 38 (b) reveals information about the private affairs of an individual.

- 1 (4) Where OFT decides that it is necessary to include information falling
2 within subsection (3) –
- 3 (a) it may do so only in the report it submits to the Council of Ministers
4 and to members of Tynwald individually; and
- 5 (b) it must redact such information from the version of the report it
6 lays before Tynwald.
- 7 (5) In reaching a decision on the publication of information covered by
8 subsection (3), OFT must have regard to the extent to which the
9 information is material to the understanding of the report.

10 PART 7 – CONSEQUENTIAL AMENDMENTS AND SAVING

11 28 Amendment to the Fair Trading Act 1996

- 12 (1) The *Fair Trading Act 1996* is amended as follows.
- 13 (2) Part 2 is repealed, subject to section 30 of this Act.
- 14 (3) Section 20 is amended by omitting from subsection (2) “(as defined by
15 section 8)” and substituting “(as defined by section 6 of the *Competition Act*
16 *2020*)”.
- 17 (4) Section 21 is amended in subsection (3)(a) by substituting –
- 18 (a) “level 5 on the standard scale” for “£5,000”; and
- 19 (b) “or” for the “and” that appears immediately after the semicolon.
- 20 (5) Section 24 is repealed.
- 21 (6) Section 25 is amended –
- 22 (a) in subsection (4), by inserting “or the *Competition Act 2020*”
23 immediately after “this Act”; and
- 24 (b) in subsection (5) –
- 25 (i) by substituting “level 5 on the standard scale” for “£5,000”;
26 and
- 27 (ii) by inserting “or” immediately after the semicolon at the end
28 of paragraph (a).
- 29 (7) Section 26 is amended by substituting the following for the definition of
30 “**anti-competitive practice**” –
- 31 “**anti-competitive practice**” has the meaning given in section 6 of the
32 *Competition Act 2020*”.
- 33 (8) Schedules 2 and 3 are repealed.

34 29 Amendment to the Company Officers (Disqualification) Act 2009

- 35 (1) The *Company Officers (Disqualification) Act 2009* is amended as follows.

- 1 (2) In paragraph 4 of Schedule 1 —
- 2 (a) omit “and” from immediately after the semicolon at the end of
- 3 subparagraph (e);
- 4 (b) omit the full stop at the end of subparagraph (f) and substitute “;
- 5 and”; and
- 6 (c) insert the following immediately after subparagraph (f) —
- 7 | “(g) sections 4 and 5 of the *Competition Act 2020*.”.

8 **30 Saving of exclusion orders made under the Fair Trading Act 1996**

9 As of the date on which section 29(2) of this Act comes into operation, all orders

10 already made under section 8(2) of the *Fair Trading Act 1996* are saved and

11 continue in operation as if they were regulations made under section 8 of this

12 Act.

IN THE COUNCIL

COMPETITION BILL 2020

A **BILL** to make provision about competition and the abuse of a dominant position in the market; to empower the Isle of Man Office of Fair Trading to collaborate with competition authorities in other jurisdictions to address issues and behaviour in those other jurisdictions that affect the Island; to permit the Isle of Man Office of Fair Trading to carry out with regulators concurrent investigations into Isle of Man regulated markets; to repeal and replace Part 2 of the Fair Trading Act 1996; to make provision for mergers; and for connected purposes.

Brought from the Keys on 30 March
2021.

MR HENDERSON

27 APRIL 2021
