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National Report for the Channel Islands

Author S M Jones

1. Introduction

The offshore British Channel Islands of Guernsey and Jersey are self governing dependencies of the British Crown. The United Kingdom is responsible for the foreign relations and external defence of the islands, but otherwise the islands are politically independent (also from one another) and each has its own legislature.

Political independence however has not meant economic independence. In the first place, the currency in each island is the pound sterling although each jurisdiction has issued its own notes and coinage. Similarly, inflation rates follow those of the United Kingdom because of the close trading links, although variations do occur from time to time.

The offshore British Channel Islands are situated closer to the north coast of France than to the south coast of the United Kingdom. Guernsey and Jersey are situated on the French side of the main shipping lanes and in fact nestle in the bay of St Malo to the west of the Cherbourg peninsula of Normandy and to the north of St Malo in Brittany. In France, the Islands are known alternatively as les Iles de la Manche or les Iles Anglo-Normandes, whilst in Germany they are known as die Kanal Inseln.

The Channel Islands have been known as a leading offshore financial centre for over 20 years. In both Islands major efforts have been made in recent years to ensure that the Islands maintain and are seen to maintain the high standards of the most reputable international financial centres of the world. For example, in Guernsey the Guernsey Financial Services Commission was set up and is a self financing statutory body which reports to the Advisory and Finance Committee, the senior committee of the Island's Government. The GFSC administers legislation regulating Guernsey's banking, insurance and offshore fund activities and will also be regulating trust company management.

2. European Community

The Channel Islands continue to monitor the developments towards a single European market. The Islands' relationship with the EC was set out in a special Protocol attached to the United Kingdom's Treaty of Accession. In general, this relationship is on the basis of "in for trade but out for all other matters". This arrangement was essential as the Islands could not cope with the complex legislation demanded by the EC nor with the other demands which would have been placed upon these small territories with booming populations. The close links between the Islands and the United Kingdom also confer major benefits to the United Kingdom. As a result of the favourable taxation treatment and freedom of movement of capital in and out of the Islands, much international money is invested in Guernsey and Jersey, which in turn is invested on the London Stock Exchange, thereby indirectly benefitting the United Kingdom economy. It is hoped that with the development of the EC harmonisation programme the same form of relationship can be established

with the Community as a whole although it is still too early to be clear whether such a role will be possible in the environment of the 1990's.

3. Insurance Activities

The Insurance Business (Guernsey) Law, 1986 has now been in operation for five years and has undergone a number of minor technical changes. The Law resulted in a welcome increase in the control of life assurance companies incorporated in Guernsey which enhanced the role of the Actuary. Of equal importance, this was achieved without the cumbersome procedures typical of many other larger territories. The type of business written by these companies in Guernsey is mainly related to personal savings arrangements for international expatriates and, as such, the Island perceives itself as being in competition with the Isle of Man. The Isle of Man has, arguably, been more successful in attracting new large life assurance operations in recent years, partly because there has been less pressure in the Isle of Man on population and housing. Supervision of international life assurance companies in Guernsey is conducted by the Superintendent of Insurance Business (part of the Guernsey Financial Services Commission) who is advised by a firm of consulting actuaries.

Guernsey is a major international centre for captive insurance and considers itself to rank second after Bermuda, but ahead of the Cayman Islands, Luxembourg and the Isle of Man. Captive Insurance is a business area which Guernsey wishes to support. Accordingly in 1991, following changes in the taxation of captive insurance companies elsewhere, the Island introduced further flexibility into the taxation arrangements for Guernsey registered captive insurance companies. There are now three

main bases on which captive insurance companies may be taxed. The individual company retains the flexibility of selecting the basis appropriate to its circumstances and is able to change its selection as required.

Jersey does not permit the establishment of life assurance companies (although companies established elsewhere may operate in Jersey through branches subject to certain controls) and only pure captives may be set up.

A development over the last couple of years has extended the product range of life insurers operating in or through the Islands. This is the introduction of the international personal pension policy. These have very few limits and permit the proceeds to be taken as cash. Despite the name and some of the publicity material this product is largely the same as the existing international savings policies.

4. Pension Arrangements

The structure of occupational pension scheme legislation differs between Guernsey and Jersey, but is substantially simpler than in the United Kingdom and generally reflects the simplicity of a time some 20 years ago in the United Kingdom. However, over the last couple of years both Islands have undertaken a review of matters relating to pension provision generally and occupational pension provision in particular. This has resulted in some harmonisation of the benefit limits for occupation pension schemes in the two Islands. In Jersey, on retirement, one quarter of the capital value of the retirement benefits may be taken as tax free cash, while in Guernsey the limit is 6/80ths of final remuneration for each year of service (up to 20 years to count) subject to restrictions if there are any

retained benefits.

In both Islands, pension benefits, before commutation, are generally provided on a scale of 1/60th of final remuneration for each year of service. Faster accrual rates are now allowed in both Islands. In Jersey a two-thirds pension may be provided after 10 years whilst in Guernsey a 1/30th scale (with a maximum service of 20 years) may be applied subject to restrictions if there are any retained benefits.

Compulsory preservation, of a form, has just arrived in the Channel Islands, but only in Guernsey. It is now necessary in Guernsey to provide that any member who has completed 5 years' service on leaving has the choice of taking a refund of his own contributions, deferred benefits or a transfer to another occupational scheme or a personal pension. In addition if transfer values are provided where service is less than 5 years there must be no discrimination between transfer to other occupational schemes or to personal pensions.

Personal pensions are permitted in both Islands and while similar to those in the United Kingdom they have various important differences. Simultaneous membership of personal pensions and an occupational pension scheme is permitted where the individual does not expect to obtain maximum benefits from the occupational pension scheme at normal retirement age. Thus simultaneous membership is available to almost all of the working population. In addition there are special arrangements with lower contribution limits for those without earned income and who make provision out of investment income or capital.

Historically the legal systems of both Guernsey and Jersey were based on French (pre Code Napoleon) Law. All legislation in recent decades has been biased towards the English Legal System and this process has resulted in trust laws being enacted in Guernsey (1989) and Jersey (1984). As far as the legal foundation of occupational pension schemes is concerned, the effect is very similar to that in the United Kingdom, although there are some minor differences.

Finally under this heading, the relationship with the United Kingdom through the UK Financial Services Act (1986) should be mentioned. Because of close ties with the United Kingdom in terms of, for example, marketing of life assurance and unit trust products, Guernsey now has Designated status under Section 87 of that Act for Collective Investment Schemes (often referred to as unit trusts or, in the USA, as mutual funds) and under Section 130 for life assurance companies. Jersey has followed a similar route, but of course has not needed designated territory status under Section 130. The achievement of this status has required the existence of excellent local protection for investors in the appropriate products and is an acknowledgement by the United Kingdom that the Islands are well run financial centres in these areas.

5. The Role of the Actuary

Guernsey has 9 resident qualified actuaries (including two locally qualified actuaries) and 4 actuarial students.

Consultancy advice is divided between a resident partnership, the United Kingdom based consultancies and the (United Kingdom) Government Actuary's department.

There is one resident employed actuary and in addition a number of UK actuaries are known to spend a significant amount of time in Guernsey on life assurance company work.

In contrast to the North American scene (as considered to extend to such territories as Bermuda and the Bahamas) the role of the actuary in Guernsey captive insurance is still thought to be a relatively minor one. It is pleasing that the comprehensive Guernsey Insurance Guide produced by the Guernsey Financial Services Commission does include an article on the role of the actuary in non-life insurance but, as has been remarked elsewhere, it does need one or two catastrophes to persuade the insurance fraternity of the value of the actuary in such areas as technical risk reserving.