

**FIRST SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 2,542 of 8th MARCH, 1990.

I ASSENT,

DEREK REFFELL,

GOVERNOR.

8th March, 1990.



GIBRALTAR.

No. 12 of 1990.

AN ORDINANCE to amend the Bankruptcy Ordinance.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. (1) This ordinance may be cited as the Bankruptcy (Amendment) Ordinance, 1990.

(2) This Ordinance shall come into effect on such day as the Governor by notice in the Gazette shall appoint and different days may be so appointed for different purposes.

New Section.

2. The Bankruptcy Ordinance is amended by inserting after Section 42 the following new section—

“Protection of assets

Bankruptcy (Amendment) Ordinance, 1990.

42A. (1) If:

- (a) under or by virtue of any disposition made in respect of property the same becomes settled property; and
- (b) the Settlor is an individual; and
- (c) the Settlor is not insolvent at the date of the disposition;
- (d) does not become insolvent in consequence thereof; and
- (e) the disposition is registered in accordance with the requirements of any regulations,

such disposition shall not be voidable at the instance of or upon application by any creditor of the Settlor.

Provided that this section shall apply only to dispositions made on or after a day to be specified by the Governor by notice in the Gazette.

(2) Without prejudice to the generality of the provisions contained in the preceding sub-section:

- (a) notwithstanding the English Law (Application) Ordinance, the Fraudulent Conveyances Act 1571 shall not apply to any disposition to which this section applies;
- (b) section 42 of the Ordinance shall not apply to any settlement to which, but for this proviso, it would have applied and which is a disposition falling within the provisions of subsection (1) of this section.

(3) For the purpose of this section:

- (a) "disposition" means any disposition or series thereof, howsoever effected, and (without prejudice to the generality thereof) includes any transaction, gift, grant or transfer of property of any nature whatsoever;

Bankruptcy (Amendment) Ordinance, 1990.

- (b) "insolvent" means in respect of a Settlor, any Settlor whose liabilities, both actual and contingent or prospective, exceed the value of his assets,

Provided that no claim by creditors shall be deemed to be a contingent or prospective liability of a Settlor who at the time of making the disposition does not have actual notice of such a claim or of the facts or circumstances which may render him liable to such a claim;

- (c) "settled property" means any property held in or upon trust, other than any property held by any person as nominee for another person, or as trustee for any other person who is absolutely entitled to the beneficial interest in such property;

- (d) "the Settlor", in relation to any settled property, includes the maker of any disposition of property which in consequence thereof becomes settled property."

Passed by the Gibraltar House of Assembly on the 16th day of February, 1990.

C. M. COOM,

Clerk to the Assembly.