

OVERALL IDENTIFIER MAP (WORDS -> TOPIC / SECTION / CASE): registered/folio/forgery/notice/caveat -> TORRENS / RPA ss 31B, 42, 43, 43A, 56C, 74F-74P / Frazer, Breskvar, Assets, Loke Yew, Bahr, Wassell, Black, Rice. | JT/TIC/survivorship/unequal \$/sell/death -> CO-OWNERSHIP / CA ss 26, 35, 66G; RPA s 97 / Corin, Calverley, Ambrus, Abela, Lake-Morley. | traditional laws/connection/pastoral/mining/extinguish/compensation -> NATIVE TITLE / NTA ss 223, 225 / Mabo, Wik, Yorta Yorta, Ward, Brown, Akiba, Timber Creek. | oral land contract/no exchange/fixture/property v contract -> FUNDAMENTALS / CA ss 23B, 23C, 54A / ANZ v Widin, Coroneo. | goods/debt/assignment/nemo dat/title/risk -> PERSONAL PROPERTY / CA s 12; SGA ss 5, 21-28 / Goodridge, DFS, Haines. | s88B/building/use/must pay-maintain-plant -> FREEHOLD COVENANTS / CA ss 88, 88B, 70A, 89; EPA s 3.16 / Tulk, Pirie, Clem Smith, Levi, Horizons. | default/s57 notice/sale/undervalue/related sale/forged POA -> MORTGAGES / RPA ss 56C, 57-59; CA s 111A / Wassell, CEG, Websdale, Pendlebury, Forsyth, Almona. | exclusive possession/term/assignment/repair/forfeiture -> LEASES / RPA ss 42(1)(d), 53; CA ss 70A, 129, 133B / Radaich, Lace, Wilson, Aussie Traveller, Boss, Bailey, Hi-Fi. | ROW/services/DT-ST/shared facility/s88K/overuse -> EASEMENTS / CA ss 88, 88A, 88B, 88BA, 88K, 89; RPA s 42(1)(a1) / Re Ellenborough, Cios, Westfield, Woodland, Treweeke. | OC/common property/by-law/pets/Airbnb/EV/levies/exclusive use -> STRATA/COMMUNITY / SSMA ss 5, 8, 83, 106, 132A-B, 135-141, 142-150 / Cooper, Dainford, Elkhouri.

1. TORRENS SYSTEM | ID:
 registered/folio/notice/forgery/caveat -> RPA ss 42, 43, 43A, 56C, 74F-74P -> Frazer/Breskvar; Assets/Grgic; Loke Yew/Bahr/Farah; Wassell/CEG; Black/Rice.

Big Picture — What This Topic Is About

► Main legislation for this is Real Property Act 1900 (NSW), is used for land registration and its central idea is **title by registration, not registration of title**; legal title comes from the State act of registration itself, not from the contract, transfer form, mortgage document or the vendor's historical title. This means that once a person becomes the **registered proprietor**, their title is generally **indefeasible** — protected from earlier unregistered interests — unless **fraud** or another recognised exception applies. The system is deliberately harsh because it prioritises certainty, marketability and reliance on the register. Old System title only matters as background: it was based on deeds, derivative title and *nemo dat*; Torrens replaced that with registration as the source of title

Exam Trigger Facts

Use Torrens whenever facts mention registered proprietor, folio/title search, registered dealing, unregistered lease/mortgage/option/trust, forged transfer/mortgage, void instrument, fraudster, rogue spouse, buyer with notice, caveat/failure to caveat, volunteer/gift/inheritance, short lease or priority dispute. FAST PICK: registration/void -> s42 + Frazer/Breskvar; knowledge -> s43 + Assets/Grgic; promise/undertaking -> Loke Yew/Bahr/Farah; forged mortgage -> s56C + Wassell/CEG; caveat -> ss74F-74P + Butler/Jessica/Guirgis; no registration -> Rice/J&H Just/Heid/Black. FIRST Q: who is registered, what is registered/unregistered, what exception?

Key Legislation / Statutory Provisions

PROVISION BANK		
Section	What it does	Notes / application
Core Rule — ss 42 and 43 RPA	Section 42 RPA is the main indefeasibility provision. A registered proprietor holds the registered estate or interest subject to interests recorded on the folio , but free from unregistered interests , unless fraud or another statutory exception applies. This means a registered purchaser is bound by a registered mortgage, lease, easement or covenant because it is on title, but generally not bound by an unregistered lease, option, trust or equitable mortgage. Section 43 RPA strengthens this by making notice irrelevant : a purchaser dealing with a registered proprietor does not need to investigate how that proprietor became registered and is not affected by actual or constructive notice of an unregistered interest. Knowledge alone is not fraud . Therefore, never use “bona fide purchaser for value without notice” as the main Torrens answer once someone has registered.	Use where facts mention folio, title search, DP, registered dealing, lease, easement, mortgage or covenant . Say the folio identifies the interest, but the actual dealing/plan may need to be read to know the content/scope of the right. Combine with easements, leases, covenants, strata/community title .
RPA 1900 (NSW) s 31B – Register	Defines the Torrens Register broadly. The register includes folios, dealings, deposited plans and other official records . This means the register is not just the one-page title search; it includes the documents/plans linked to the folio. Breskvar v Wall — supports register reliability and title by registration.	Breskvar v Wall for register reliability/title by registration; Westfield v Perpetual Trustee for reading registered easements from the register. Use when the facts mention a title search, folio, plan, DP, registered dealing, lease, mortgage, easement or covenant . Say the folio tells you what is registered, but the actual dealing/plan may need to be read to understand the content of the interest.
RPA s 42(1) – estate of registered proprietor paramount.	This is the main indefeasibility provision in NSW Torrens title. It gives the registered proprietor of any registered estate or interest a title that is generally protected from earlier unregistered claims . It applies to the registered owner of the fee simple, but also to registered interests such as a registered mortgage, registered lease or registered easement . The RP holds their registered estate/interest subject to interests recorded on the folio , but free from interests not recorded , unless fraud or another statutory exception applies. This is why the register is legally powerful: s 42 does not merely make the register evidence of ownership; it gives registration its legal force and priority. The RP's title does not depend on proving a perfect historical chain of title, because Torrens is title by registration . Frazer v Walker = immediate indefeasibility ; Breskvar v Wall = registration can vest title even through a void instrument ; Mayer v Coe = NSW application of Frazer ; Bogdanovic v Kotoff = registered volunteers are generally protected in NSW .	USE s 42(1) FIRST whenever a party is registered. Identify (1) who is the RP, (2) what estate/interest is registered, (3) what interests are recorded on the folio, and (4) what competing interest is unregistered. Then write : because X is registered, s 42 gives X title subject to registered interests but free from Y's unregistered interest unless an exception applies. If no exception applies, the RP wins. If an exception is arguable, move to the relevant separate rule: fraud, s 56C mortgage VOI, s 42(1)(d) short lease, in personam, volunteer deriving from fraudster/s 118, omitted easement/profit/boundary exception, or caveat/equitable priority where no one has registered. Formula: RP + registered estate/interest = bound by registered interests + free from unregistered interests, unless fraud/exception.
RPA S 43 – Purchaser from RP not to be affected by notice	s 43 is the “notice does not matter by itself” provision . It protects people who deal with a registered proprietor by saying they do not need to investigate how the RP became registered, and they are not affected by actual or constructive notice of an unregistered estate, interest or trust. This is important because, under Old System/equity, notice could make a later purchaser bound by an earlier equitable interest. Torrens changes that. In Torrens, a person can know about an unregistered interest and still register free from it unless the facts amount to fraud, in personam liability, a statutory exception, or another recognised limit . s 43 therefore supports s 42 by stopping unregistered claimants from saying “but the purchaser knew about me.” Loke Yew = notice alone is not fraud, but a false undertaking can be fraud ; Bahr v Nicolay = acknowledgement/undertaking may create in personam obligation ; Grgic v ANZ = failure to investigate/notice suspicious facts is not fraud without dishonesty .	Use this immediately after s 42 whenever the facts mention knowledge or notice. Trigger words : knew, was told, should have known, saw the tenant, knew of the trust, knew of the option, searched documents, constructive notice, suspicious circumstances . Write: although X had notice of Y's unregistered interest, s 43 means notice alone does not defeat X's registered title and is not fraud. Then ask whether there is something more: false undertaking under Loke Yew, acknowledgement/in personam under Bahr, actual dishonesty under fraud, short lease under s 42(1)(d), or a caveat/equitable priority issue before registration.
RPA S43A – Protection as to notice before registration	s 43A deals with the period before registration . It protects certain people who have taken a registrable dealing from a registered proprietor but have not yet become registered themselves. The section can protect that person from being affected by notice of earlier unregistered interests, by treating their estate/interest as if it has legal quality for the limited purpose of priority against notice. This matters because there is often a gap between contract/exchange/settlement and registration. Before registration, s 42 is not available yet, so s 43A may help a purchaser or mortgagee who has a registrable instrument but is still technically unregistered. Breskvar v Wall = pre-registration priority can still involve equitable interests ; Rice v Rice = first equitable interest usually wins unless postponing conduct ; use with caveat cases like Black v Garnock where timing matters.	Use this only where X has not registered yet but has a registrable transfer/mortgage/dealing and is competing with another unregistered/equitable claimant. Do not use s 43A once X is already registered — then use s 42 . In an exam, ask: Has X taken a registrable dealing? Is X dealing with the RP? Is the dispute about notice before registration? Is there an earlier equitable interest? If yes, s 43A may strengthen X's priority position. If no, move to ordinary equitable priority: Rice v Rice , caveat/failure to caveat, and postponing conduct.
RPA S 56C – Confirmation of identity mortgagor	s 56C is the key forged mortgage / mortgage identity verification section . It requires a mortgagee, before lodging a mortgage for registration, to take reasonable steps to confirm that the person who executed the mortgage as mortgagor is the same person who is, or is about to become, the registered proprietor of the land used as security. It also covers the situation where someone signs on behalf of the mortgagor, meaning authority must be verified too. The section responds to the harshness of immediate indefeasibility: under ordinary Torrens principles, a registered mortgagee may be protected even if the mortgage was forged, but s 56C places a statutory burden on mortgagees to verify identity before gaining that protection. The mortgagee must keep records of the steps taken/documents obtained, and the	Use whenever the facts involve a mortgage affected by fraud or identity issues . Ask: Was it a mortgage? Was the mortgage forged or signed by the wrong person? Was there a power of attorney? Did the mortgagee take reasonable steps to verify identity and authority? Did they keep records? If VOI was not properly done, argue the mortgage may be vulnerable despite registration. Then separately check the wording of the mortgage: even if registered, it may secure no debt if the true owner never borrowed or requested the money, as in CEG v Wang .