Transitional Rules and Procedures  
until Torrens System Abolished[[1]](#footnote-1)

The Torrens system of land title registration was abolished as of January 1, 2000. Transitional rules and procedures for the period from January 1, 1997, to January 1, 2000, are described below.[[2]](#footnote-2)

1. Proceedings to register title to land are no longer allowed.

2. “Adverse instruments”—defined generally as instruments that affect but do not convey title and which do not require the registered owner’s consent, such as mechanic’s liens, judgments and *lis pendens* notices—will continue to be accepted for registration until the title certificate for the registered property has been delivered by the registrar to the county clerk or register for recording.

3. “Voluntary instruments”—defined as those that convey title or affect title, and the validity of which is dependent upon the consent of the registered owner, such as deeds, mortgages and leases— will not be registered. A voluntary instrument must be delivered to the registrar, who is directed to deliver to the county clerk or county register, for recording, the document and the certificate of title covering the land involved, containing memorials for all instruments filed with the registrar.

4. The registrar is directed to deliver to the county clerk or county register for recording, on or before January 1, 2000, all remaining certificates of title.

5. After a certificate of title is recorded, the land can be conveyed or encumbered in the same manner as unregistered land—that is, by recording or filing the necessary document in the county clerk’s or county register’s office.

6. Instruments filed or recorded in the office of the county clerk or county register, before the recording of the certificate of title and not filed with the registrar, will not create valid and enforceable liens or encumbrances except for judgments where the “landowner received notice of such judgment.”[[3]](#footnote-3)

7. All instruments memorialized on the certificate of title at the time of recording remain valid and enforceable.

8. The land title registration law continues in force as to title matters for the period of time that the title remained under the registry system.

9. Claims based upon prescription or adverse possession, which could not be asserted against registered titles,[[4]](#footnote-4) cannot be asserted against the *registered* owner, even after the recording of a voluntary instrument and the certificate of title, but can be asserted against a subsequent owner.[[5]](#footnote-5) The statute does not state when, for the purpose of establishing a claim, the statutory ten-year period of adverse possession is to commence, but it seems logical that it would not begin until the date of transfer of title by the registered owner.

PRACTICE GUIDE

Suffolk County and other areas formerly requiring Torrens title certifications are phasing out this outdated system of registering properties. The Suffolk County registrar’s requirements now are limited to a simple recital in deeds saying “being and intended to be the same premises as Registered under Certificate of Title No. \_\_\_\_\_\_\_\_\_\_\_.”

With Torrens title registration being gradually phased out, it is advisable to check with your title company or the clerk in the county in which the deed is to be recorded to ascertain up-to-date filing requirements of municipalities that are or were subject to Torrens registration.

1. The Torrens system has been abolished. This appendix is in the chapter for informational purposes only. [↑](#footnote-ref-1)
2. *See* RPL § 436. [↑](#footnote-ref-2)
3. RPL § 436(6). [↑](#footnote-ref-3)
4. *See* RPL § 401. [↑](#footnote-ref-4)
5. RPL § 436(9). [↑](#footnote-ref-5)