PS LA 1998/1 - Law administration practice statements

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This document has changed over time. This version was published on *23 April 2026*

This practice statement was originally published on 17 December 1998. Versions published from 21 May 2009 are available electronically - refer to the online version of the practice statement. Versions published prior to this date are not available electronically. If needed, these can be requested by emailing TCNLawPublishingandPolicy@ato.gov.au .

Generated on: 7 November 2026, 06:28:26 AM

Law administration practice statements

This Practice Statement explains the law administration practice statement system.

Relying on this Practice Statement

This Practice Statement is an internal instruction to ATO staff, published externally in the interest of open tax administration.

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Why we have law administration practice statements

1. Law administration practice statements (practice statements) are a policy product governed by the Policy Management Framework (link available internally only).

2. Policy products governed by the Policy Management Framework are a key component of our internal control system and support the Commissioner of Taxation in executing the duties, powers and functions conferred as:

- administrator of the tax and superannuation systems
- Agency Head under the *Public Service Act 1999*, including those relating to Australian Public Service employees and employer responsibilities
- accountable authority under the *Public Governance, Performance and Accountability Act 2013*, relating to the governance, reporting, and the use and management of public resources, and
- Registrar of the Australian Business Registry Services (Registrar) under the *Commonwealth Registers Act 2020*.

What practice statements are

3. Practice statements are policy documents that provide lawful and reasonable directions to ATO staff when administering the tax and superannuation systems administered by the Commissioner and business registry laws administered by the Registrar.

4. There are 2 series of practice statements – the standard series (such as this one) and the general administration series. General administration practice statements are identified by the suffix of (GA) after their number.[1] We no longer prepare general administration practice statements.[2]

5. Practice statements provide you with mandatory instructions and guidance on how you should undertake technical work[3] and assist you to perform your duties and make decisions about the laws we administer.

6. While they may discuss technical issues[4], practice statements do so in a way to give sense to the instructions they are providing. They are not intended to provide interpretative advice and do not express precedential ATO views.[5]

7. Even though ATO staff are the primary audience for a practice statement, they are published externally in the interest of open tax administration.

8. If a taxpayer relies on a particular practice statement that is incorrect or misleading and makes a mistake as a result, they will remain liable for any resulting tax shortfall, but will be protected against:

- any shortfall penalty that would otherwise arise[6], and
- interest charges on the shortfall if the particular practice statement was reasonably relied on in good faith.[7]

Your responsibilities in relation to practice statements

Responsibilities as an author

9. Practice statement content should align to the intent of the Policy Management Framework and not introduce new or inconsistent information that conflicts with other practice statement obligations.

10. Policy instructions and guidance that direct and assist ATO staff in applying the laws administered by the Commissioner should be issued in the form of a practice statement. Other communications (for example, office minutes or practice notes) should

[1] These practice statements are an aspect of the Commissioner's general administration of the taxation and superannuation laws (which are set out in the various Acts administered by the Commissioner) and provide guidance on compliance issues arising from such laws.
[2] For new public advice or guidance on compliance issues, consider an alternative product (such as a practical compliance guideline).
[3] 'Technical work' in this context means the performance of duties involving the application of the taxation and superannuation laws administered by the Commissioner (such as interpretative decision-making) and business registry laws administered by the Registrar.
[4] For example, Law Administration Practice Statement PS LA 2005/24 *Application of General Anti-Avoidance Rules* contains extensive discussion of technical issues in the context of providing instruction and practical guidance to staff.
[5] Precedential ATO views are set out in public rulings (including draft public rulings), ATO interpretative decisions, decision impact statements and documents listed in Schedule of Documents containing Precedential ATO views, available on ATOlaw (link available internally only) or the ATO Legal database. See Law Administration Practice Statement PS LA 2003/3 *Precedential ATO view*.
[6] See section 284-224 of Schedule 1 to the *Taxation Administration Act 1953*.
[7] See section 361-5 of Schedule 1 to the *Taxation Administration Act 1953*.

not be used for this purpose, except as an interim measure while a practice statement is being developed.

11. Additional practice notes, guidelines, work instructions or other tools can be issued to support the implementation of the policy outlined in a practice statement and may provide further detailed guidance and procedures to assist ATO staff. When developing such subordinate products, you should ensure that the underlying intent of the practice statement is maintained and include a link and a reference to the practice statement.

12. Authoring teams should work collaboratively with communication areas to determine an appropriate communication approach to notify ATO staff about practice statements.

13. Communication may be required:

- for new practice statements
- for material updates to existing practice statements
- when withdrawing a practice statement
- when broad staff consultation is required.

14. Business line authoring teams are responsible for keeping records in relation to the development and maintenance of practice statements.

Responsibilities as a user

15. When performing your duties, it is your responsibility to check whether there are any relevant practice statements to consider and follow.

16. If you think that the application of a particular practice statement has an unintended consequence or that it is incorrect, you must escalate the matter using your business line escalation process.

When practice statements should be developed

17. Factors that may assist in determining whether a practice statement is the appropriate product to develop are discussed in paragraphs 18 to 21 of this Practice Statement.

The primary audience is ATO staff

18. A practice statement should be developed where the primary purpose is to provide direction and assistance to ATO staff. It is the appropriate product where the intended audience is ATO staff, even if the content may also be of interest to taxpayers or tax practitioners.

The proposed content is predominantly policy

19. If the content provides directions and guidance to assist ATO staff to perform duties and make decisions about the practical application of the laws we administer, it is policy and a practice statement is appropriate.

20. The policy outlined in practice statements may provide the framework for establishing other detailed guidance and procedures to assist ATO staff to undertake specific tasks (for example, in the form of practice notes and other internal procedures).

21. Where the proposed content intends to establish a precedential ATO view or provide new or detailed interpretative guidance on an issue, a practice statement would not be appropriate. You should consult with your business line Public advice and guidance (PAG) Unit or the PAG Governance team (links available internally only) in the Office of the Chief Tax Counsel to determine the most appropriate product.[8]

Policy needs to be formalised, made consistent or centralised

22. Practice statements are authoritative sources of policy content to assist interpretive decision-making. Consider to what extent information is already available on the proposed content, how the potential practice statement will fit into any existing hierarchy of advice and guidance and if the current content is in an appropriate form or (more correctly) belongs in a practice statement format. Ensure consistency between multiple documents is maintained.

Development of a practice statement has been agreed between the business line PAG Unit and other ATO stakeholders

23. A practice statement should also be progressed where there has been internal consultation within the ATO and there is agreement that a practice statement is the appropriate product for the guidance. New practice statements will need to be notified to and considered by the PAG Advisory Committee (link available internally only), in accordance with the procedures referred to in paragraphs 24 to 28 of this Practice Statement.

Process for development of practice statements

24. You must follow the procedures in PAG development procedures – end to end (link available internally only) when developing a new practice statement.

25. This ensures:

- the corporate processes applying to the development of PAG are undertaken consistently
- any practice statements developed are subject to the appropriate approvals and governance processes and involve the relevant ATO stakeholders, including
  - business line risk owners, authors and relevant PAG Units
  - the Office of the Chief Tax Counsel (including PAG Governance, Law Publishing and the Tax Counsel Network), and
  - the PAG Advisory Committee.

26. In certain circumstances, it may be appropriate for staff consultation to occur for new and material changes required to a practice statement.

27. Where the nature of the change relates to work practices or workplace matters which would significantly impact staff in their capacity as employees, the relevant principles governing consultation are contained in clause 10 of the ATO Enterprise Agreement 2024. These instances would be rare, given the purpose and nature of practice statements.

[8] See PS LA 2003/3.

28. Where the nature of the change relates to instructions or guidance about how technical work should be undertaken or laws administered, both internal and public consultation should be considered as part of standard PAG product development processes and the principles governing consultation.

Maintenance of practice statements

29. Practice statements are 'owned' by a business line (practice statement owner) that must maintain the currency of that practice statement. Maintenance of law administration practice statements (link available internally only) sets out requirements for practice statement owners.

30. Practice statement owners must advise a date for scheduled maintenance (maintenance review date) when a new practice statement is published or an existing practice statement is updated. The maintenance review date should:

- reflect the particular circumstances and subject matter of the practice statement, and
- generally, be set for not more than 3 years into the future.

31. Law Publishing will record this date in the practice statement's metadata. PAG Governance will periodically conduct a process to request practice statement owners review their practice statements (based on the maintenance review date) to satisfy the minimum maintenance obligations for practice statements.

32. However, sometimes an event triggers the need for a practice statement to be revised, regardless of the maintenance review date – for example, when:

- new primary legislation is passed or existing legislation is amended
- a decision is handed down by a court or tribunal
- new PAG is published that affects the content of the practice statement
- existing policy or procedures are updated as a result of a project, internal names change or there are other changes.

33. If a practice statement is reviewed prior to its maintenance review date (for example, in response to a court decision), the whole document should be reviewed and a new maintenance review date set.

34. In undertaking a review, the practice statement owner will decide whether it requires significant changes, care and maintenance updates, withdrawal or no change.

35. Where a significant change to, or withdrawal of, an existing practice statement is considered prioritised (link available internally only), it must be notified to and considered by the PAG Advisory Committee, in accordance with paragraphs 24 to 28 of this Practice Statement.

36. The practice statement owner must also ensure consistency with any related:

- policies and procedures, including practice notes, office minutes, work instructions or other tools
- guidance, including content on ato.gov.au, public rulings or practical compliance guidelines, where applicable.

37. Practice statement owners should also consider conformance with the policies outlined in their practice statement – that is, whether staff are consistently and effectively following and applying the policies as intended. At a minimum, this should be undertaken on the maintenance review date but may be conducted more frequently.

Authorised versions of practice statements

38. All practice statements are published internally on ATOlaw and externally on the ATO Legal database in the interest of open tax administration.

39. The electronic version is the only authorised version of a practice statement. Any other copies (including hard copies) are not to be relied upon.

More information

40. For more information:

- view Law administration practice statements (link available internally only)
- view practice statements on ATOlaw (link available internally only) or the ATO Legal database
- view the ATO Enterprise Agreement (link available internally only)
- view Consulting on public advice and guidance (link available internally only)
- contact PAG Governance in the Office of the Chief Tax Counsel.

Date issued: 17 December 1998

Date of effect: 17 December 1998

Amendment history

23 April 2026

Part	Comment
Paragraph 1	Updated to refer to the amended Policy management framework.
Paragraph 9	Updated to ensure alignment of content in practice statements to the intent of the Policy management framework.
Paragraph 10	Updated to include a reference to communication of practice statements.
Paragraph 13	Updated to include a reference to keeping records.
Paragraphs 25 to 26	Updated to include consultation on practice statements.
Paragraphs 30 to 31	Updated to clarify maintenance obligations.
Paragraph 38	New section added concerning authorised versions.
More information	Updated to include links to the ATO Enterprise Agreement and Consulting on public advice and guidance pages and remove reference to Conformance with obligations CEI.
Throughout	Updated to remove references to the former PAG Steering Committee and include reference to the new PAG Advisory Committee. Updated to align with amended Practice Statement style and formatting requirements.

20 February 2025

Part	Comment
Throughout	Updated in line with current ATO style and accessibility requirements, including correcting several broken internal hyperlinks.
Section 6	Updated to include reference to procedure for maintaining practice statements and requirement for conformance monitoring.

14 August 2024

Part	Comment
Section 1	Updated to explain how practice statements support the overall ATO policy framework.
Section 2	Updated ‘What are practice statements’ to remove duplication and incorporate information about the types of practice statements.
Section 3	Updated to explain the responsibilities of ATO staff as both authors and users of practice statements.
Section 4	New section added to provide clearer guidance and instructions to staff about the factors to consider when deciding to prepare a practice statement.

Section 5	Updated to provide the reference to new internal PAG development procedures and reasons why we follow these procedures.
Section 6	Added further detail to assist staff determine who should maintain a practice statement and when it should be reviewed.
Throughout	Updated in line with current ATO style and accessibility requirements.
More information	Links updated.

17 April 2018

Part	Comment
All	Revised for currency and advising the discontinuance of GA LAPS.

19 February 2015

Part	Comment
Throughout	Rewritten Practice Statement published.

19 December 2013

Part	Comment
Throughout	Removed Law and Practice and replaced with Tax Counsel Network. Removed Law (from Practice Management) and replaced with TCN. Minor changes to formatting.
Paragraph 24	Removed ‘staff’ and replaced with ‘ATO personnel’.
Paragraph 37	Updated Sub-plan Executive with Group Executive.
Paragraphs 36, 39 and 41	Replaced Taxpayers' Charter team with Charter Review team.
Paragraph 42	Replaced Second Commissioner (Law) with Second Commissioner (Law Design and Practice).

2 May 2013

Part	Comment
Paragraph 7	Insert requirement to ensure underlying intent of the LAPS is maintained when ATO personnel are developing guidelines or similar products to support the LAPS.
Footnote 6	Insert instruction to consider packaging GA LAPS documents for Commissioner's approval where the GA LAPS will need to issue in a short timeframe and will be issued for external consultation.
Throughout	Minor changes to wording to reflect updates to Branch name, other references.

18 October 2012

Part	Comment
Throughout	Updated processes to reflect withdrawal of the priority technical issue system. Removed requirement to undergo official extension of time process if due dates pass. Updated names of relevant areas of responsibility. Updated citations and style in accordance with corporate requirements.
Paragraph 2	Allowed for interim policy to be distributed via office minute, subject to conditions.
Paragraph 39	Removed the active role of the Assistant Commissioner, Law Practice Management Unit in the registration and approval processes of process LAPS.

29 November 2011

Part	Comment
Various	Unified format of headings.
Various	Formatting of LAPS citations updated as per ATO Standards for Citations and References.
Paragraph 12	Maintenance & Support team's role in LAPS currency review.
Paragraph 30	Removed reference to former Commissioner Carmody's speech as this link is no longer available.
Paragraph 39	Assistant Commissioner's details updated to Law Practice Management Unit.
Paragraph 42	DCTC approval of topics being added to the LAPS Program.
Various	PTI & Public Rulings Branch updated to PTI & Public Rulings Unit (PTI & PRU).
Various	Tax Office updated to ATO as per the ATO Style Guide.
Contact details	Updated.

27 August 2009

Part	Comment
Paragraph 14	Sentences included to allow for the introduction of point in time functionality.
Paragraph 37	Inserted to mandate the use of Siebel in the development of LAPS. All consequent paragraphs renumbered.
Paragraphs 39, 42 and 45	Amended to allow for minor changes to the process due to the introduction of Siebel.
Related practice statements	Hyperlink to PS LA 2009/4 added.
Other references	Hyperlink to PS LA 2009/4 added.

21 May 2009

Part	Comment
Paragraphs 45 and 46	Amended to incorporate the process outlined in PS LA 2009/4 in relation to obtaining approval for the exercise of the Commissioner's power of general administration.

23 September 2008

Part	Comment
Contact details	Contact details updated.

29 June 2007

Part	Comment
Various	Amended to: • update paragraph relating to citation of LAPS • change classification types of LAPS to process, technical and GA • change procedures for the development of LAPS • make adherence to Information Kit for Authors and Sponsors mandatory.

31 July 2006

Part	Comment
Various	Amended to: • allow for changes in procedures regarding the drafting and approval of all LAPS • formalise TechNet role in regard to consultation • include requirement to register significant technical LAPS as a priority technical issue • include clarification of the CMPS/LAPS boundary • improve wording for clarification • update procedure for approval of LAPS (GA) • include new paragraphs 4 and 22 concerning precedential ATO view and level of protection.

Also previously amended on 20 December 2002, 4 May 2003 and 9 June 2005

References

Legislative references:

- TAA 1953 Sch 1 284-224
- TAA 1953 Sch 1 361-5
- Public Service Act 1999
- Public Governance, Performance and Accountability Act 2013
- Commonwealth Registers Act 2020

Related practice statements:

PS LA 2003/3; PS LA 2005/24

Other references:

Policy Management Framework (link available internally only)
Law administration practice statements (link available internally only)
Law Publishing (link available internally only)
Maintenance of law administration practice statements (link available internally only)
Public advice and guidance (PAG) Unit (link available internally only)
PAG development procedures – end to end (link available internally only)
PAG Governance (link available internally only)
Schedule of Documents containing Precedential ATO Views
ATO Enterprise Agreement 2024 (link available internally only)
Consulting on public advice and guidance page (link available internally only)

ATO references

NO:	98/117644; 1-126KOUU8; 1-15FVB21B
ISSN:	2651-9526
BSL:	OCTC
ATOlaw topic:	Administration ~~ Internal ATO processes Administration ~~ Rulings and other advice

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