



New South Wales

Uniform Civil Procedure (Amendment No 104) Rule 2025

under the

Civil Procedure Act 2005

The Uniform Rules Committee has made the following rule of court under the *Civil Procedure Act 2005*.

REBEL KENNA
Secretary of the Uniform Rules Committee

Explanatory note

The object of this rule is to deal with the use of generative artificial intelligence in relation to the following—

- (a) affidavits, witness statements and other evidentiary material,
- (b) written submissions and summaries of argument,
- (c) experts' reports.

Uniform Civil Procedure (Amendment No 104) Rule 2025

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1 Name of rule

This rule is the *Uniform Civil Procedure (Amendment No 104) Rule 2025*.

2 Commencement

This rule commences on 3 February 2025.

Schedule 1 Amendment of Uniform Civil Procedure Rules 2005

[1] Rule 31.4 Court may direct party to furnish witness statement

Insert after rule 31.4(3)—

- (3A) Generative artificial intelligence must not be used to generate the content of a witness statement, including by altering, embellishing, strengthening, diluting or rephrasing a witness's evidence.
- (3B) Each witness statement must include a statement that generative artificial intelligence was not used to generate the content of the witness statement.
- (3C) Generative artificial intelligence must not, without leave of the court, be used to generate the content of an annexure or exhibit to a witness statement.

[2] Rule 31.27 Experts' reports

Insert after rule 31.27(4)—

- (5) Generative artificial intelligence must not, without leave of the court, be used to generate the content of an expert's report.
- (6) If leave of the court under subrule (5) has not been sought or granted, an expert's report must include a statement that generative artificial intelligence was not used to generate the content of the expert's report.
- (7) If generative artificial intelligence is used to generate the content of an expert's report with leave of the court under subrule (5), the expert witness must—
 - (a) include a statement that generative artificial intelligence was used to generate the content of the report, and
 - (b) identify, in the body of the report, the part of the report generated using generative artificial intelligence, and
 - (c) identify, in the report, the following—
 - (i) the generative artificial intelligence program used to generate the content of the report,
 - (ii) the date of use,
 - (iii) the version of the generative artificial intelligence program used to generate the content of the report, and
 - (d) identify, in an annexure to the report, the prompts, script or data provided to the generative artificial intelligence program to generate the part of the report referred to in paragraph (b) unless the court grants leave to dispense with this requirement, and
 - (e) identify, and attach to the report a copy of, any relevant code of practice or principle relating to generative artificial intelligence that applies to or binds the expert witness.
- (8) If generative artificial intelligence is used to generate the content of an expert's report in a professional negligence claim under rule 31.36 or an expert's report referred to in a pre-filing statement, within the meaning of the *Workplace Injury Management and Workers Compensation Act 1998*, section 315, leave to rely on the report must be sought at the first directions hearing for the matter.

[3] Rule 35.3B

Insert after rule 35.3A—

35.3B Use of generative artificial intelligence in affidavits

- (1) Generative artificial intelligence must not be used to generate the content of an affidavit.
- (2) An affidavit must include a statement that generative artificial intelligence was not used to generate the content of the affidavit.
- (3) Generative artificial intelligence must not, without leave of the court, be used to generate the content of an annexure or exhibit to an affidavit.

[4] Rule 51.12 Party to file and serve White Folder with summons seeking leave

Insert after rule 51.12(4)—

- (4A) If generative artificial intelligence is used to generate the content of the applicant's argument, the summary of argument must state that all citations, legal authorities and case law referred to in the argument exist and are accurate and relevant to the proceedings.

[5] Rule 51.13 Opposing party to file a response

Insert after rule 51.13(2)—

- (2A) If generative artificial intelligence is used to generate the content of the response, the response must state, at the end of the response, that all citations, legal authorities and case law referred to in the response exist and are accurate and relevant to the proceedings.

[6] Rule 51.13(6A)

Insert after rule 51.13(6)—

- (6A) If generative artificial intelligence is used to generate the content of the summary referred to in subrule (3), the summary must state that all citations, legal authorities and case law referred to in the summary exist and are accurate and relevant to the proceedings.

[7] Rule 51.36 Content of written submissions

Insert after rule 51.36(1)—

- (1A) If generative artificial intelligence is used to generate the content of the submissions, the submissions must state, at the end of the submissions, that all citations, legal authorities and case law referred to in the submissions exist and are accurate and relevant to the appeal.

[8] Rule 51.45 Proceedings in supervisory jurisdiction

Insert after rule 51.45(5)—

- (5A) If generative artificial intelligence is used to generate the content of the submissions, the submissions must state that all citations, legal authorities and case law referred to in the submissions exist and are accurate and relevant to the proceedings.

[9] Rule 59.8 Procedure—Court Book, defendant's argument and plaintiff's argument in reply

Insert after rule 59.8(4)—

- (4A) If generative artificial intelligence is used to generate the content of the summary of argument, the summary must state that all citations, legal authorities and case law referred to in the summary exist and are accurate and relevant to the proceedings.

[10] Schedule 7 Expert witness code of conduct

Insert at the end of clause 3—

- (2) Generative artificial intelligence must not, without leave of the court, be used to generate the content of an expert's report.
- (3) If leave of the court under subclause (2) has not been sought or granted, an expert's report must include a statement that generative artificial intelligence was not used to generate the content of the expert's report.
- (4) If generative artificial intelligence is used to generate the content of an expert's report with leave of the court under subclause (2), the expert witness must—
- (a) include a statement that generative artificial intelligence was used to generate the content of the report, and
 - (b) identify, in the body of the report, the part of the report generated using generative artificial intelligence, and
 - (c) identify, in the report, the following—
 - (i) the generative artificial intelligence program used to generate the content of the report,
 - (ii) the date of use,
 - (iii) the version of the generative artificial intelligence program used to generate the content of the report, and
 - (d) identify, in an annexure to the report, the prompts, script or data provided to the generative artificial intelligence program to generate the part of the report referred to in paragraph (b) unless the court grants leave to dispense with this requirement, and
 - (e) identify, and attach to the report a copy of, any relevant code of practice or principle relating to generative artificial intelligence that applies to or binds the expert witness.
- (5) If generative artificial intelligence is used to generate the content of an expert's report in a professional negligence claim under rule 31.36 or an expert's report referred to in a pre-filing statement, within the meaning of the *Workplace Injury Management and Workers Compensation Act 1998*, section 315, leave to rely on the report must be sought at the first directions hearing for the matter.

[11] Schedule 7, clause 4(1)

Omit "clause 3(a)". Insert instead "clause 3(1)(a)".

[12] Schedule 7, clause 4(1)

Omit "clause 3(f)". Insert instead "clause 3(1)(f)".

[13] Dictionary

Insert in alphabetical order—

generative artificial intelligence means an artificial intelligence tool capable of creating text, images, sound or other content based on patterns and data obtained from a body of material and includes large language models, but does

not include technology that does not generate substantive content and merely corrects spelling or grammar, provides transcription or translation or assists with formatting.