



Rule Committee of the Personal Injury Commission

Resolution #4 of 2025

Pursuant to section 19 of the *Personal Injury Commission Act 2020*

On 24 February 2025, the Rule Committee of the Personal Injury Commission of New South Wales (**Committee**) resolved in a majority vote by circular resolution as follows:

1. That the Personal Injury Commission Rules 2021 be amended due to the passage of the amendments made to the Uniform Civil Procedure Rules 2005 (UCPR) to address the use of Generative Artificial Intelligence (AI) in legal proceedings.

The President voted for the resolution set out above.

Dated 24 February 2025

BY THE RULE COMMITTEE

ANNEXURE A

Generative AI – Applicability of UCPR for Personal Injury Commission Rules 2021

Item	Rule/Clause of UCPR	Content of UCPR	Applicability to PIC Rules	Potential amendment to PIC Rules
1.	<p>Division 1 – Evidence at hearing</p> <p>Part 31 - Evidence Rule 31.4</p>	<p>Rule 31.4 Court may direct party to furnish witness statement</p> <p><i>(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.</i></p> <p><i>(3B) Each witness statement must include a statement that generative artificial intelligence was not used to generate the content of the witness statement.</i></p> <p><i>(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.</i></p>	<p>Applicable in part. To be adopted for PIC Rules with amendments to:</p> <ul style="list-style-type: none"> UCPR 31.4 (3C) requires adjustment to replace “leave” with “disclosure”. annexures/exhibits which are generated by AI, and replace the word “Court” with “Commission”. Incorporate an additional sub-rule for the requirement to declare use of Generative AI in exhibits/annexures per new UCPR 35.3B relating to Affidavits 	<p>Adopt rule to be inserted into Part 5 Evidence, Div 5.1 General of the PIC Rules (this Division contains rules relating to witnesses and expert witnesses):</p> <p>“Part 5 Evidence Division 5.1 General</p> <p>...</p> <p>34) Calling witnesses</p> <p>...</p> <p>34A) Witness statements</p> <p>a) <i>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.</i></p> <p>b) <i>Each witness statement must include a statement that generative artificial intelligence was not used to generate the content of the witness statement.</i></p>

Item	Rule/Clause of UCPR	Content of UCPR	Applicability to PIC Rules	Potential amendment to PIC Rules
				<p>c) <i>Generative artificial intelligence must not, without leave of the court, being disclosed to the Commission, be used to generate the content of an annexure or exhibit to a witness statement.</i></p> <p>d) <i>If Generative artificial intelligence is used by a party to generate the content of an annexure or exhibit to a witness statement, then that annexure or exhibit must include a statement declaring this.</i></p>
2.	<p>Division 2 – Provisions applicable to expert evidence generally</p> <p>Subdivision 2 – Expert witnesses generally</p> <p>Rule 31.27</p>	<p>Rule 31.27 Experts’ reports</p> <p><i>(5) Generative artificial intelligence must not, without leave of the court, be used to generate the content of an expert’s report.</i></p> <p><i>(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</i></p>	<p>Applicable in part. To be adopted for PIC Rules with amendment to:</p> <ul style="list-style-type: none"> R 31.27(5) requires adjustment by replacing “leave” with “disclosure”, and requiring disclosure with both the use and non-use of AI. R 31.27(6) to be adopted only so far as inclusion of a statement that AI was not used to generate the content of an expert’s report and 	<p>Adopt rule as a sub-rule in rule 35 “Expert Witnesses” of Part 5 Evidence, Div 5.1 General:</p> <p>“Part 5 Evidence Division 5.1 General</p> <p>...</p> <p>35 Expert witnesses</p> <p><i>(1) Rule 34 applies to an expert witness in the same way as it applies to any other witness and the report of the expert witness constitutes a written statement of the</i></p>

Item	Rule/Clause of UCPR	Content of UCPR	Applicability to PIC Rules	Potential amendment to PIC Rules
		<p><i>the content of the expert's report.</i></p> <p><i>(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—</i></p> <p><i>(a) include a statement that generative artificial intelligence was used to generate the content of the report, and</i></p> <p><i>(b) identify, in the body of the report, the part of the report generated using generative artificial intelligence, and</i></p> <p><i>(c) identify, in the report, the following—</i></p> <p><i>(i) the generative artificial intelligence program used to generate the content of the report,</i></p> <p><i>(ii) the date of use,</i></p> <p><i>(iii) the version of the generative artificial intelligence program used to generate the content of the report, and</i></p> <p><i>(d) identify, in an annexure to the</i></p>	<p>to remove references to leave.</p> <ul style="list-style-type: none"> • R 31.27(7) requires adjustment to removing reference to requiring "leave" and instead replaced with "disclosure to the Commission" • R 31.27(8) to be adjusted to remove reference to medical negligence claims, but to require disclosure of use of AI (rather than leave requirement) in PFS' filed in the Commission to meet the DC and SC requirements. • President Phillips has requested existing r 35(3) of the PIC Rules to be deleted as the admissibility of evidence is a matter for the relevant decision-maker and should not be subject to a rule of this nature. 	<p><i>evidence to be given by the witness for the purposes of rule 34(1)(b).</i></p> <p><i>(2) A party proposing to call a witness to give evidence as an expert witness has a duty to ensure the witness is aware of and adheres to any procedural direction concerning the use of expert witnesses.</i></p> <p><i><u>(2A) Generative artificial intelligence must not, without leave of the court being disclosed by the expert, be used to generate the content of an expert's report.</u></i></p> <p><i><u>(2B) If leave of the court under subrule (5) has not been sought or granted generative AI has not been used by an expert, an expert's report must include a statement that generative artificial intelligence was not used to generate the content of the expert's report.</u></i></p> <p><i><u>(2C) If generative artificial intelligence is used to generate the content of an expert's report with leave of the court under subrule (5), and it is disclosed to the Commission, the expert witness must—</u></i></p> <p><i><u>(a) include a statement that generative artificial intelligence was used to generate the</u></i></p>

Item	Rule/Clause of UCPR	Content of UCPR	Applicability to PIC Rules	Potential amendment to PIC Rules
		<p><i>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</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p>		<p><i>content of the report, and</i></p> <p><i>(b) identify, in the body of the report, the part of the report generated using generative artificial intelligence, and</i></p> <p><i>(c) identify, in the report, the following—</i></p> <p><i>(i) the generative artificial intelligence program used to generate the content of the report,</i></p> <p><i>(ii) the date of use,</i></p> <p><i>(iii) the version of the generative artificial intelligence program used to generate the content of the report, and</i></p> <p><i>(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), and</i></p> <p><i>(e) identify, and attach to the</i></p>

Item	Rule/Clause of UCPR	Content of UCPR	Applicability to PIC Rules	Potential amendment to PIC Rules
				<p><i>report a copy of, any relevant code of practice or principle relating to generative artificial intelligence that applies to or binds the expert witness.</i></p> <p><i>(2D) 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, which is filed in applicable proceedings before the Commission, leave to rely on the report must be sought at the first directions hearing for the matter this must be disclosed to the Commission in accordance with this rule.</i></p> <p><i>(3) Unless the Commission orders differently, expert evidence that does not comply with the procedural direction referred to in subrule (2) is not admissible may not be considered in</i></p>

Item	Rule/Clause of UCPR	Content of UCPR	Applicability to PIC Rules	Potential amendment to PIC Rules
				Commission proceedings.
3.	Part 35 – Affidavits Rule 35.3B	Rule 35.3B Use of generative artificial intelligence in affidavits <i>(1) Generative artificial intelligence must not be used to generate the content of an affidavit.</i> <i>(2) An affidavit must include a statement that generative artificial intelligence was not used to generate the content of the affidavit.</i> <i>(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.</i>	<p>The content of this rule is incorporated under the rule regarding “witness statements”. There is no requirement to repeat this rule as “Affidavits” are not tendered in Commission proceedings.</p>	N/A
4.	Division 4 – Applications for leave to appeal or cross-appeal Subdivision 2 – Supporting documents Rule 51.12	Rule 51.12 Party to file and serve White Folder with summons seeking leave <i>(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.</i>	<p>This rule should be adopted for all written submissions filed by parties to proceedings in the Commission across both Divisions and is not limited only to Presidential or Medical appeals in the Commission. In Commission proceedings, decision-makers may call for written submissions during primary proceedings.</p>	<p>A new, generic, rule is recommended to canvass this requirement for all proceedings (including appeals in the Commission), under Part 14 Miscellaneous:</p> <p>“Rule 133C Written submissions <i>If generative artificial intelligence is used to generate the content of the applicant’s argument written submissions of a party in applicable proceedings, whether those submissions are required by these rules, enabling legislation, or at the direction of the Commission or</i></p>

Item	Rule/Clause of UCPR	Content of UCPR	Applicability to PIC Rules	Potential amendment to PIC Rules
				<i>applicable decision-maker, the summary of argument the submissions must state that all citations, legal authorities and case law referred to in the argument submissions exist and are accurate and relevant to the proceedings."</i>
5.	Division 4 – Applications for leave to appeal or cross-appeal Subdivision 2 – Supporting documents Rule 51.13	Rule 51.13 Opposing party to file a response <i>(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.</i> ... <i>(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.</i>	See item (4) above	N/A – already recommended to adopt at item (4)
6.	Division 4 – Applications for leave to appeal or cross-appeal	Rule 51.36 Content of written submissions <i>(1A) If generative artificial</i>	See item (4) above	N/A – already recommended to adopt at item (4)

Item	Rule/Clause of UCPR	Content of UCPR	Applicability to PIC Rules	Potential amendment to PIC Rules
	Subdivision 2 – Supporting documents Rule 51.36	<i>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.</i>		
7.	Division 4 – Applications for leave to appeal or cross-appeal Subdivision 2 – Supporting documents Rule 51.45	Rule 51.45 Proceedings in supervisory jurisdiction <i>(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.</i>	See item (4) above	N/A – already recommended to adopt at item (4)
8.	Part 59 – Judicial review proceedings Rule 59.8	Rule 59.8 Procedure—Court Book, defendant’s argument and plaintiff’s argument in reply <i>(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</i>	See item (4) above	N/A – already recommended to adopt at item (4)

Item	Rule/Clause of UCPR	Content of UCPR	Applicability to PIC Rules	Potential amendment to PIC Rules
		<p><i>exist and are accurate and relevant to the proceedings.</i></p>		
<p>9.</p>	<p>Schedule 7 – Expert witness code of conduct Clause 3</p>	<p>Clause 3 Content of report</p> <p><i>(2) Generative artificial intelligence must not, without leave of the court, be used to generate the content of an expert’s report.</i></p> <p><i>(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.</i></p> <p><i>(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—</i></p> <p><i>(a) include a statement that generative artificial intelligence was used to generate the content of the report, and</i></p> <p><i>(b) identify, in the body of the report, the part of the report generated using generative artificial intelligence, and</i></p> <p><i>(c) identify, in the report, the following—</i></p>	<p>This clause is identical to UCPR 31.27 which is being adopted by the PIC Rules at item (2).</p> <p>This clause appears to simply repeat the rule in the UCPR schedule relating to the Expert witness code of conduct. The PIC Rules do not have an equivalent code of conduct, and it is not necessary to repeat .</p>	<p>N/A – already recommended to adopt at item (2).</p>

Item	Rule/Clause of UCPR	Content of UCPR	Applicability to PIC Rules	Potential amendment to PIC Rules
		<p>(i) <i>the generative artificial intelligence program used to generate the content of the report,</i></p> <p>(ii) <i>the date of use,</i></p> <p>(iii) <i>the version of the generative artificial intelligence program used to generate the content of the report, and</i></p> <p>(d) <i>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</i></p> <p>(e) <i>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</i></p>		

Item	Rule/Clause of UCPR	Content of UCPR	Applicability to PIC Rules	Potential amendment to PIC Rules
		<p><i>binds the expert witness.</i></p> <p><i>(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.</i></p>		
10	<p>Schedule 7 – Expert witness code of conduct</p> <p>Clause 4</p>	<p>Clause 4</p> <p>Supplementary report following change of opinion</p> <p><i>(1) Where an expert witness has provided to a party (or that party's legal representative) a report for use in court, and the expert thereafter changes his or her opinion on a material matter, the expert must forthwith provide to the party (or that party's legal representative) a supplementary report which must state, specify or provide the information referred to in clause 3(1)(a), (d), (e), (g), (h), (i), (j), (k) and (l), and if applicable, clause 3(1)(f).</i></p>	<p>Applicable in part. To be adopted for PIC Rules with amendments to:</p> <ul style="list-style-type: none"> The word “court” to be replaced with the words “the Commission”. 	<p>Adopt clause in the sub-rule proposed at item (2), under Part 5 Evidence, Div 5.1 General, rule 35 Expert witnesses:</p> <p>Part 5 Evidence Div 5.1 General Rule 35 Expert witnesses</p> <p>...</p> <p>2E) Supplementary report following change of opinion</p> <p><i>Where an expert witness has provided to a party (or that party's legal representative) a report for use in court the Commission, and the expert thereafter changes his or her their opinion on a material matter, the expert must forthwith provide to the party</i></p>

Item	Rule/Clause of UCPR	Content of UCPR	Applicability to PIC Rules	Potential amendment to PIC Rules
				(or that party's legal representative) any supplementary report of the expert which must also adhere to the requirements of this rule state, specify or provide the information referred to in referred to in clause 3(1)(a), (d), (e), (g), (h), (i), (j), (k) and (l), and if applicable, clause 3(1)(f) this rule.
11	Definitions	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.	This definition is applicable and to be adopted in whole for PIC Rules.	To be added to the <u>"Dictionary" of the PIC Rules.</u>
12	Division 2 Provisions applicable to expert evidence generally Subdivision 1 Preliminary R 31.18 Definitions	In this Division— expert , in relation to any issue, means a person who has such knowledge or experience of, or in connection with, that issue, or issues of the character of that issue, that his or her opinion on that issue would be admissible in evidence. ...	"Expert" is not defined in the PIC Rules (notwithstanding rule 35 referring to expert witnesses). It is suggested that the definition of "expert" provided by the UCPR be adopted for clarity on the meaning of an expert, in the context of the existing rules regarding experts and new rules around generative AI use by experts. In the Commission, an expert would not be limited to just an independent or forensic expert, but, would include those treating	To be added to the <u>"Dictionary" of the PIC Rules.</u>

Item	Rule/Clause of UCPR	Content of UCPR	Applicability to PIC Rules	Potential amendment to PIC Rules
			specialists who are instructed to provide an opinion for the purpose of Commission proceedings. Consideration may be given to expanding the definition of an "expert" to state, <i>"including, but not limited to, medical specialists, allied health practitioners, and independent medical examiners..."</i> , or alternatively, refer to this in the PD relating to Gen AI and expert evidence.	
13	Division 2 Provisions applicable to expert evidence generally Subdivision 1 Preliminary UCPR 31.18 Definitions	<p>In this Division –</p> <p>...</p> <p>expert witness means an expert engaged or appointed for the purpose of—</p> <p>(a) providing an expert's report for use as evidence in proceedings or proposed proceedings, or</p> <p>(b) giving opinion evidence in proceedings or proposed proceedings.</p>	<p>"Expert witness" is not defined in the PIC Rules (notwithstanding rule 35 referring to expert witnesses). It is suggested that the definition of "expert witness" provided by the UCPR be adopted for clarity on the meaning of an expert, in the context of the existing rules regarding experts and new rules around generative AI use by experts.</p>	<p>To be added to the "Dictionary" of the PIC Rules.</p>
14	Division 2 Provisions applicable to expert evidence generally Subdivision 1 Preliminary UCPR 31.18 Definitions	<p>In this Division –</p> <p>expert's report means a written statement by an expert (whether or not an expert witness in the proceedings concerned) that sets out the expert's opinion and the facts, and assumptions of fact, on which the opinion is based.</p>	<p>"Expert report" is not defined in the PIC Rules (notwithstanding rule 35 referring to expert witnesses). It is suggested that the definition of "expert witness" provided by the UCPR be adopted for clarity on the meaning of an expert, in the context of the existing rules regarding experts and new rules around generative AI use by experts.</p>	<p>To be added to the "Dictionary" of the PIC Rules. The definition of an expert report is expanded in the PD to include IME and treating reports prepared for purpose of proceedings.</p>
15	Additional Rule for the PIC Rules	N/A	N/A	<p>A rule is proposed to prohibit the use of artificial</p>

Item	Rule/Clause of UCPR	Content of UCPR	Applicability to PIC Rules	Potential amendment to PIC Rules
				<p>intelligence by parties attending or appearing in audio-visual hearings in Commission proceedings.</p> <p>The Commission is seeing instances of AI bots joining MS Teams hearings during virtual listings. A rule is therefore requested by the President for a general prohibition to the use of AI programs during virtual hearings.</p> <p>Example Rule:</p> <p>Part 14 Miscellaneous</p> <p><i>“Rule 133B – Artificial Intelligence use in proceedings conducted by telephone or audio-visual link</i></p> <p><i>Artificial intelligence technology, programs, tools or applications must not be joined to nor used during audio, audio-visual, or hybrid listings before the Commission.”</i></p>