



New South Wales

Uniform Civil Procedure (Amendment No 101) Rule 2024

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

This rule makes amendments to the *Uniform Civil Procedure Rules 2005* consequential on the amendment of the *Defamation Act 2005* that provides a defence for publications involving digital intermediaries.

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1 Name of rule

This rule is the *Uniform Civil Procedure (Amendment No 101) Rule 2024*.

2 Commencement

This rule commences on 1 July 2024.

Schedule 1 Amendment of Uniform Civil Procedure Rules 2005

[1] Part 14 Pleadings

Insert after rule 14.38—

14.38A Defence for publications involving digital intermediaries

A defence under section 31A of the *Defamation Act 2005* is sufficiently pleaded if it alleges that—

- (a) the defendant was a digital intermediary in relation to the publication, and
- (b) the defendant had, at the time of the publication, an accessible complaints mechanism for the plaintiff to use, and
- (c) if the plaintiff gave the defendant a written complaint under the section about the publication—reasonable access prevention steps, if steps were available, were taken in relation to the publication, whether before the complaint was given or within 7 days after the complaint was given.

[2] Part 15 Particulars

Insert after rule 15.28—

15.28A Particulars in relation to defence for publications involving digital intermediaries

Without limiting rule 15.21, the particulars required by rule 15.1 for a defence under section 31A of the *Defamation Act 2005* must include particulars of the facts, matters and circumstances on which the defendant relies to establish that—

- (a) the defendant was a digital intermediary in relation to the publication, and
- (b) the defendant had, at the time of the publication, an accessible complaints mechanism for the plaintiff to use, and
- (c) if the plaintiff gave the defendant a written complaint under the section about the publication—reasonable access prevention steps, if steps were available, were taken in relation to the publication, whether before the complaint was given or within 7 days after the complaint was given.