



# Enhancing Efficiency: Key Amendments to the Dispute Act



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**In a pursuit to bolster efficiency, several significant changes were recently made to the Dispute Act. These amendments, enacted through Act 11 May 2023 No. 13, encompass a range of modifications related to (inter alia) the refusal of appeals, legal cost procedures and court mediation. Some of the changes were made effective on 1 July 2023, while some will come into force in January 2024. The amendments bring about material alterations that legal practitioners and litigants should be aware of. In the following sections, we take a closer look at two notable amendments effective from 1 July 2023.**

One of the most notable changes is found in Section 8-3 of the Dispute Act, which governs court mediation. The amendment introduces a shift in the decision-making process. Instead of the court having the discretion to decide on court mediation ("can" decide), it is now mandated that the court "shall" decide court mediation when it deems the case suitable. Furthermore, the condition of "particular reasons" in order to dictate mediation against the parties' will is no longer required. This change signifies a proactive approach by the court to encourage mediation and foster amicable solutions. However, we raise the question of whether forcing the parties to attempt mediation in the absence of a willingness to reach a settlement may merely add a costly step on the way to a final solution. We look forward to observing how the court applies this rule.

Another amendment is in section 29-13 of the Dispute Act, second paragraph, first sentence, which has been revised to make it easier for the Court of Appeal to reject appeals. The previous requirement that the Court of Appeal must find it "clear that the appeal will not succeed" has been replaced. Now, appeals can be rejected when there is a "clear preponderance of probability" that the appeal will not succeed. While this change lowers

the threshold for rejection, it is crucial to note that a relatively strict interpretation of this condition is necessary. An appeal must still demonstrate a higher degree of unlikelihood to succeed in order to be rejected.

Transitional rules specify that the new rejection threshold applies to judgments handed down on or after 1 July. Additionally, the notification deadline for possible rejection of appeal, as stated in Section 29-13, fourth paragraph, second sentence, has been extended from one to two months, applying to cases received by the Court of Appeal on or after 1 July 2023.

The abovementioned amendments to the Dispute Act signify a step towards enhanced efficiency in civil proceedings in Norway. The changes empower the court to take a more proactive role in promoting mediation, which may help facilitate amicable solutions at an early stage. Additionally, the lowering of the threshold for rejecting appeals reflects a shift towards more frequent rejections where the likelihood of success is insufficient. Additional changes that come into force in 2024 have a similar focus on efficiency and front-loading. As these changes come into effect, legal professionals and litigants should be mindful of the potential implications these changes may have in individual cases.

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Fagområder      Tvisteløsning og prosedyre

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