

Adjudication Survey 2024



Construction & Technology Attorneys

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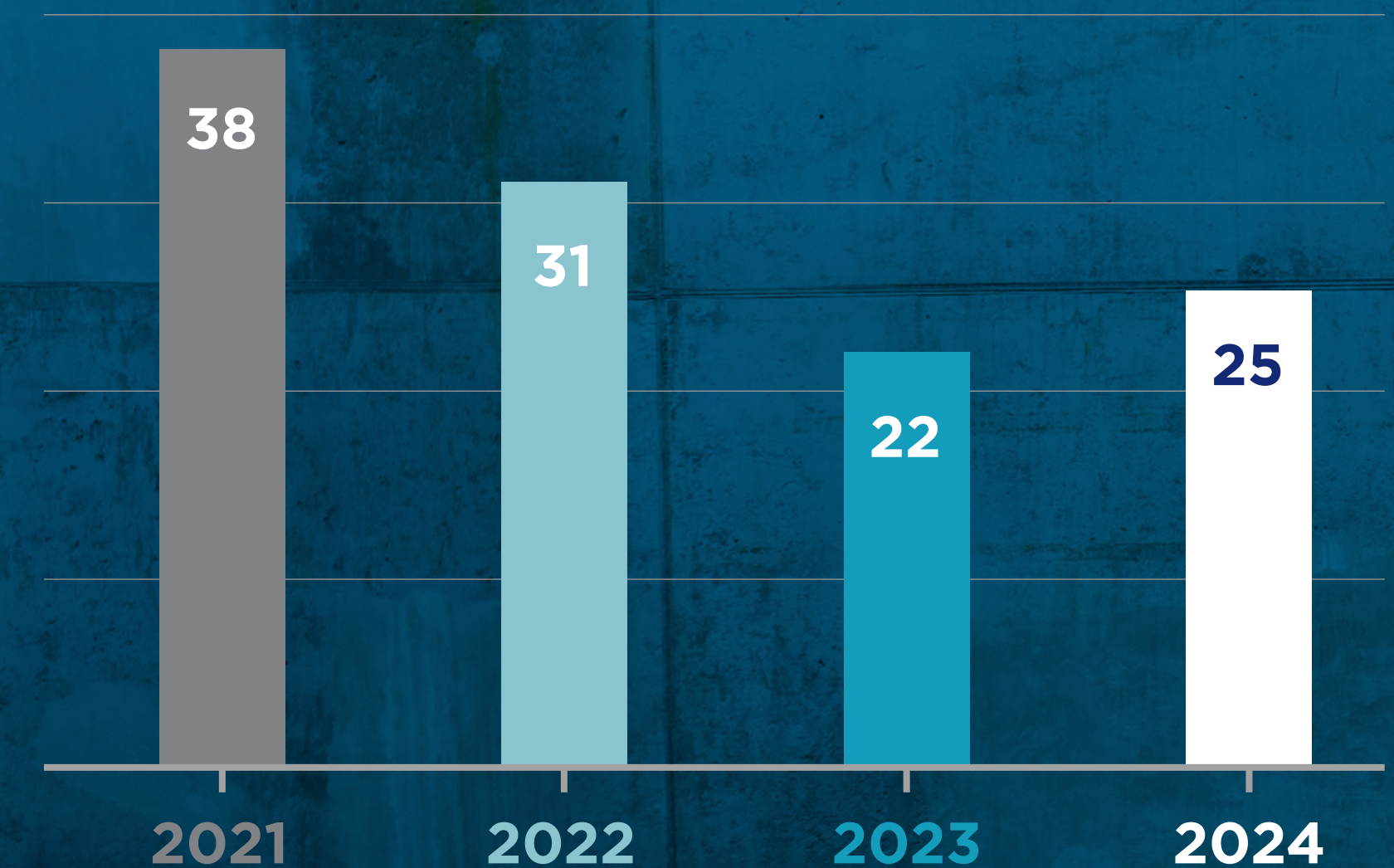
Introduction

The MDA Adjudication Survey aims to provide some (albeit limited) statistical information regarding the state of adjudication in South Africa.

The survey consists of information collected by MDA in respect of adjudications where MDA were retained to represent one of the disputing parties, or where one of our fee earners acted as an adjudicator.

The information collected relates to adjudications where a decision was issued between 01 January, 2024 and 31 December, 2024. MDA assisted with **25** adjudications during this period.

The survey does not attempt to provide a representation of statistics of all adjudications in South Africa but simply provides analysis taken from these **25** adjudications and provides some interesting insight.



Nature of dispute

	2021	2022	2023	2024
Claim for payment of outstanding monies/ incorrect certification	7	9	7	5
Claim for extension of time and time related costs	8	8	8	12
Enforcement of contractual rights	4	4	1	5
Claim for penalties or other <i>contra charges</i> by an employer (against a contractor) or a contractor (against a subcontractor)				2
Strike declared a compensation event				1
Claim for payment for change in the Prices (additional cost)				4
Claim for outstanding payment and early termination				1
Claim for expense ad loss suffered by the contractor				1

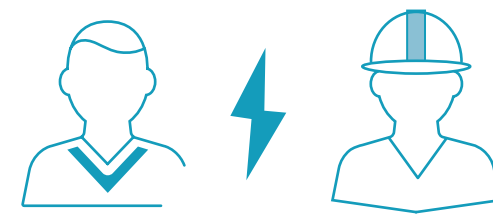


The most common disputes referred to adjudication during the 2024 year were those in respect of claims for extension of time and time related costs followed by claims for payment of outstanding monies/ incorrect certification. This is a continuation of the previous years trend. Of more significance is the decline in claims for defective work, with our 2024 survey recording 0 matters of this nature.

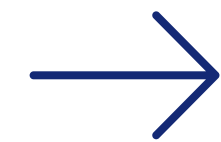
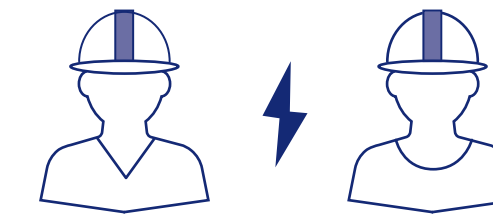
Parties to the dispute



■
Employer / Contractor

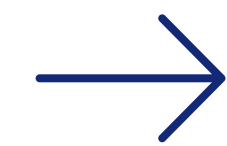
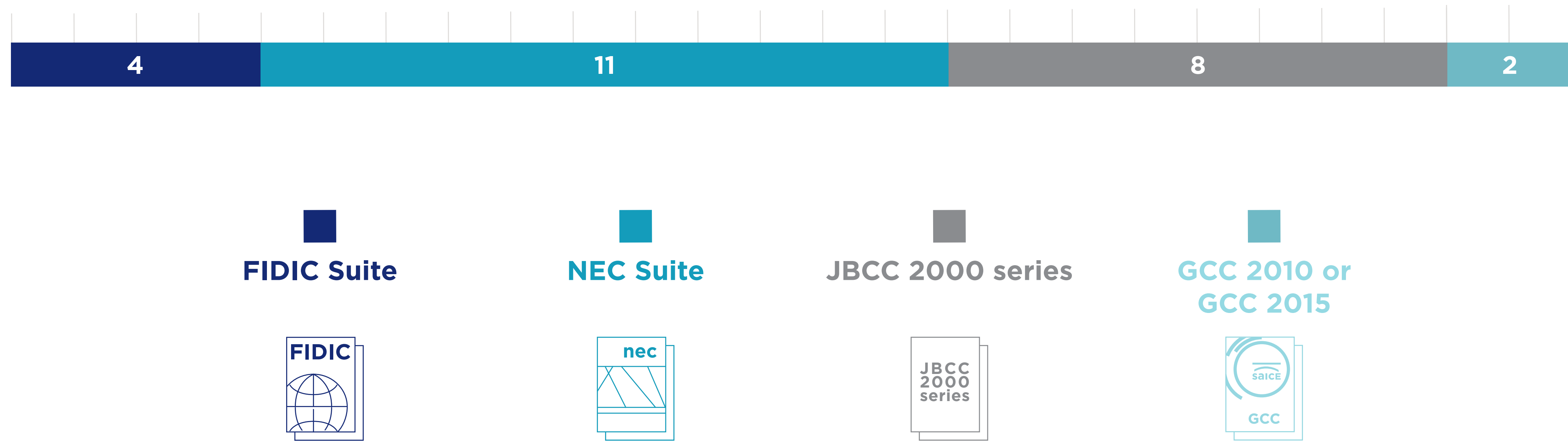


■
Contractor / Subcontractor



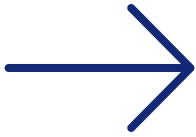
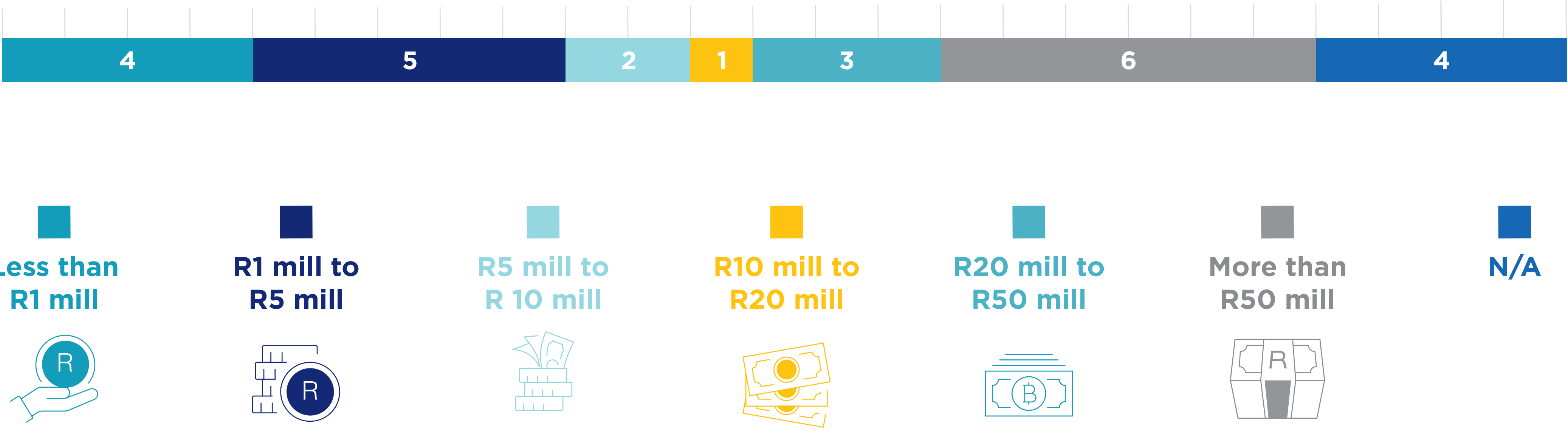
Similar to previous years, the majority of the disputes handled by MDA involved disputes between contractors and employers, with only 2 out of 25 disputes between contractor/ subcontractor.

Conditions of contract



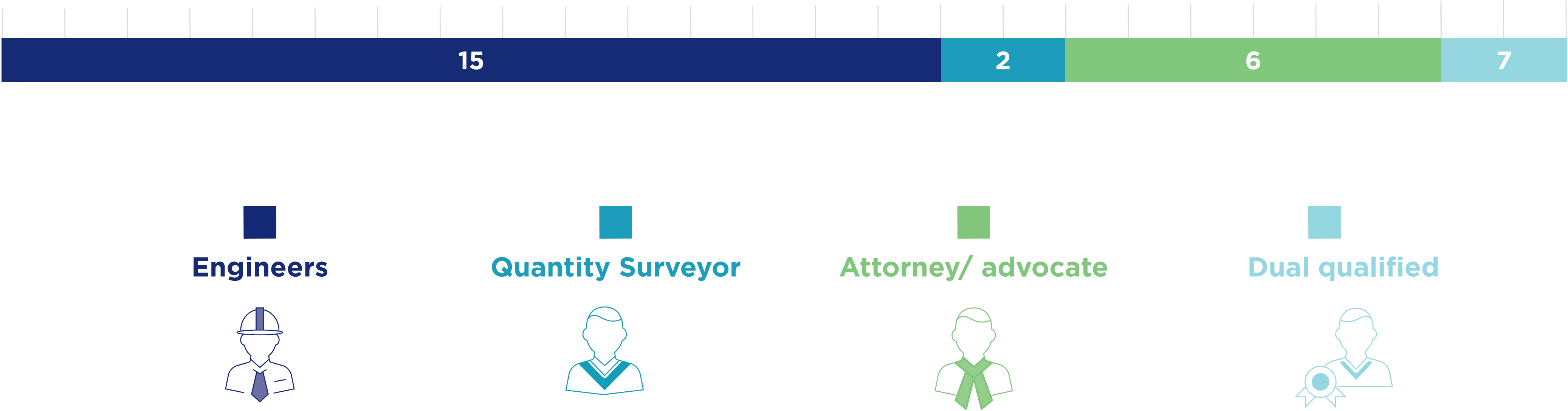
In previous years the highest ranking contract causing disputes has predominantly been the NEC, we see this trend again in 2024. The JBCC made up the second largest portion of the contracts creating disputes. Many of these were building projects hence the higher ranking of the JBCC from previous years. Also of note is that only 2 disputes have been declared under the GCC. This may be an indication of the decline in GCC related contracts mostly awarded by municipalities and illustrated the continued decline in municipal infrastructure projects.

Monetary value of dispute



Once again we note that although the number of disputes referred to adjudication has decreased year on year, the value of the disputes referred has increased significantly.


Qualification of adjudicator



Where we would normally see an even spread in the qualification of adjudicators, we note that this year a larger number of engineers were appointed as adjudicator, perhaps indicating the technicality of the disputes.

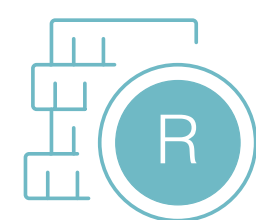
What was adjudicator's hourly rate?



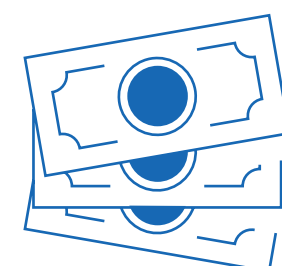

**R2000/
hour or less**



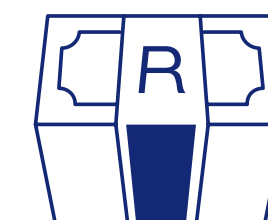

**R2001 - R2500/
hour**




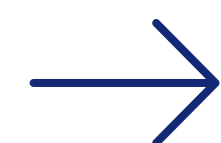

**R2501 - R3500/
hour**




**More than R3500/
hour**

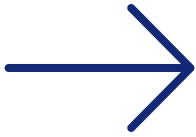
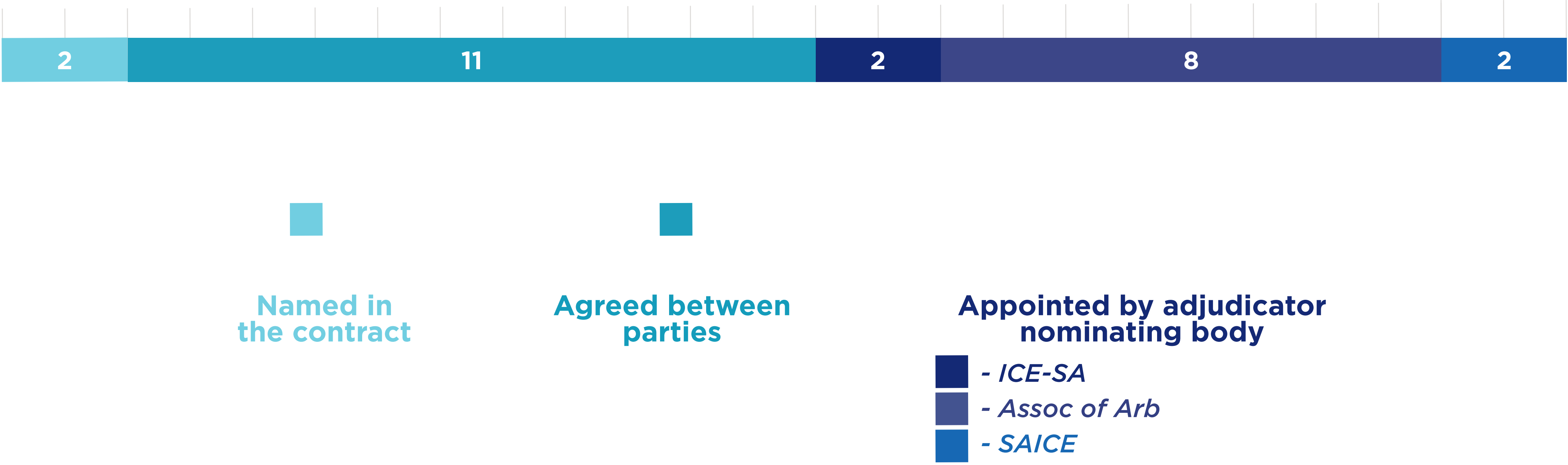



Undisclosed



The highest rate charged per hour for an adjudication in 2024 falls into the region of R3500 or more. There is a direct correlation between this hourly rate and the qualification of the adjudicators noted in the previous slide.

Appointment of the adjudicator

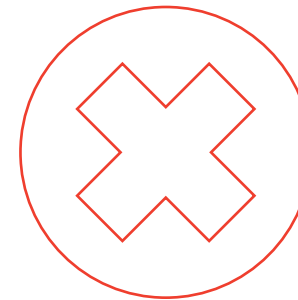


This years data once again showed most adjudicators being appointed via agreement between parties and through the Association of Arbitrators.

Was there a hearing?



No



In the early days of adjudications hearings were commonplace, it appears as the industry has come to accept the success of adjudication that it is rare to find parties having hearings. Adjudicators and parties prefer questions to be raised and answered, rather than a formal hearing.

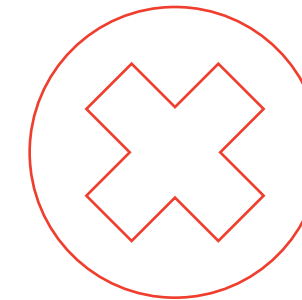
Was there a settlement reached during the adjudication process?



Yes



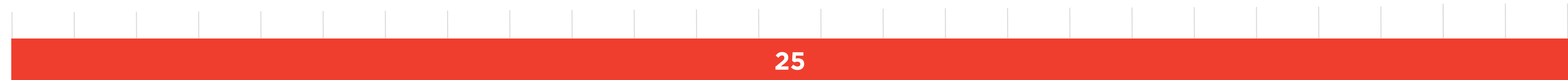
No



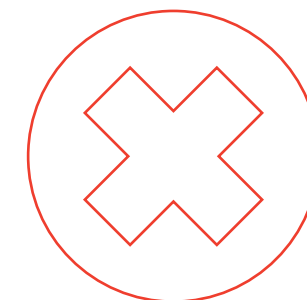
It remains rare for parties to reach a settlement during adjudication proceedings.



**Was the adjudication converted into an arbitration
- or another process - prior to the decision being
published?**



No



Did the adjudicator issue his/her decision in time?



If dispute an Employer / Contractor dispute then decision in favour of?



Employer



Contractor



This data is unsurprising given that the contractor is typically the referring party in an adjudication.

If dispute a Contractor/ Subcontractor dispute then decision in favour of?



Contractor



Subcontractor



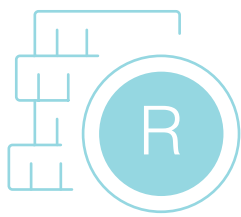
Monetary value of decision



**Less than
R1 million**



**R1 million to
R5 million**



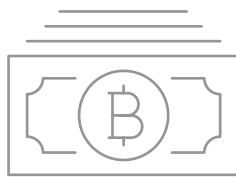
**R5 million to
R 10 million**



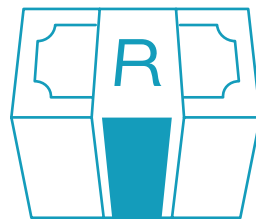
**R10 million to
R20 million**



**R20 million to
R50 million**



**More than
R50 million**

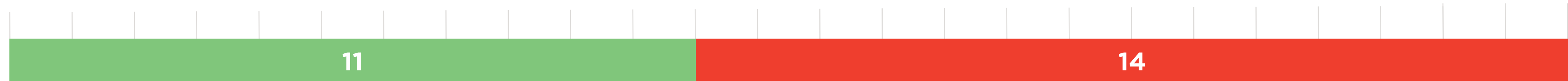


N/A



The data here ties back to higher values seen in the disputes declared.

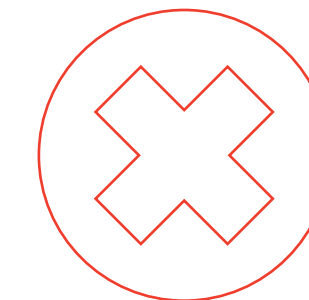
Has a notice of dissatisfaction been issued within the required time period?



Yes



No



Interestingly a lot more notices of dissatisfaction were issued in the 2024 year than in previous years. Although the issuing of a notice of dissatisfaction does not necessarily result in an arbitration.

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