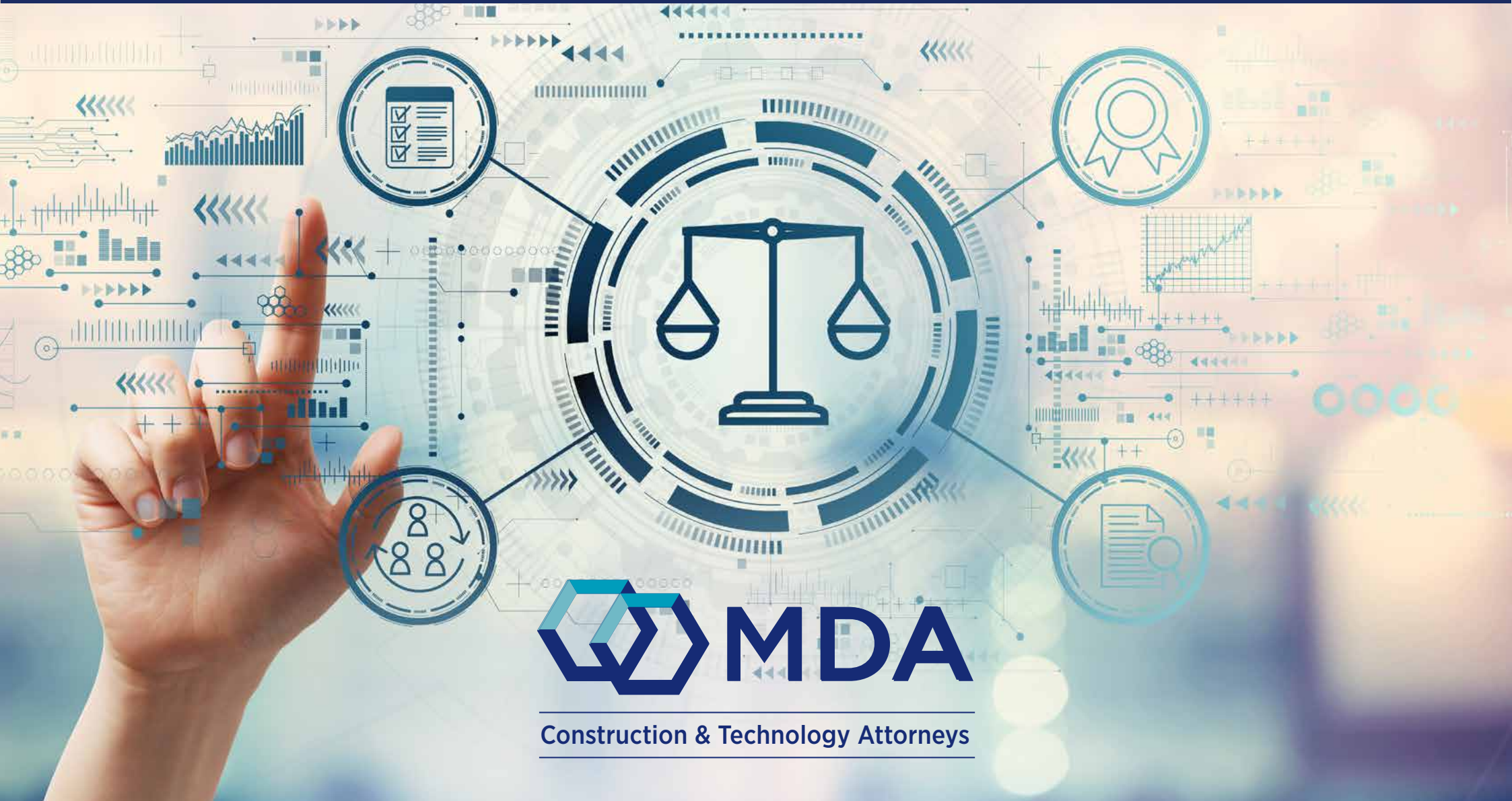


# ADJUDICATION SURVEY 2019 | 2020



Construction & Technology Attorneys

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# INTRODUCTION

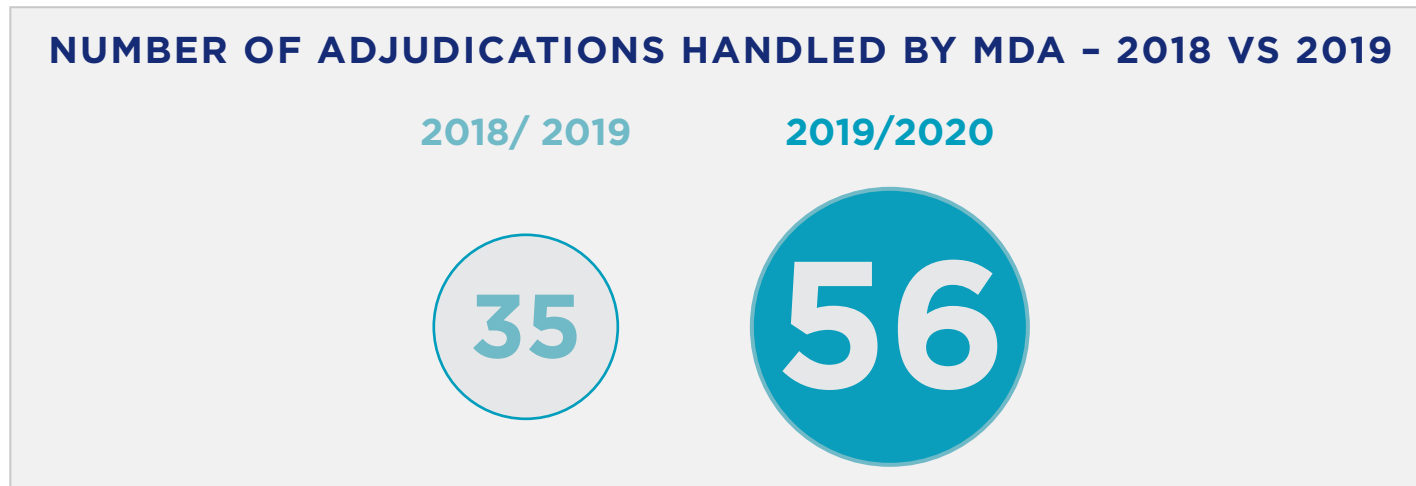
The MDA Adjudication Survey aims to provide some (albeit limited) statistical information regarding the state of adjudication in South Africa.

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, 2019 and 31 December, 2019.

MDA assisted with **56** 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 **56** adjudications and provides some interesting insight.



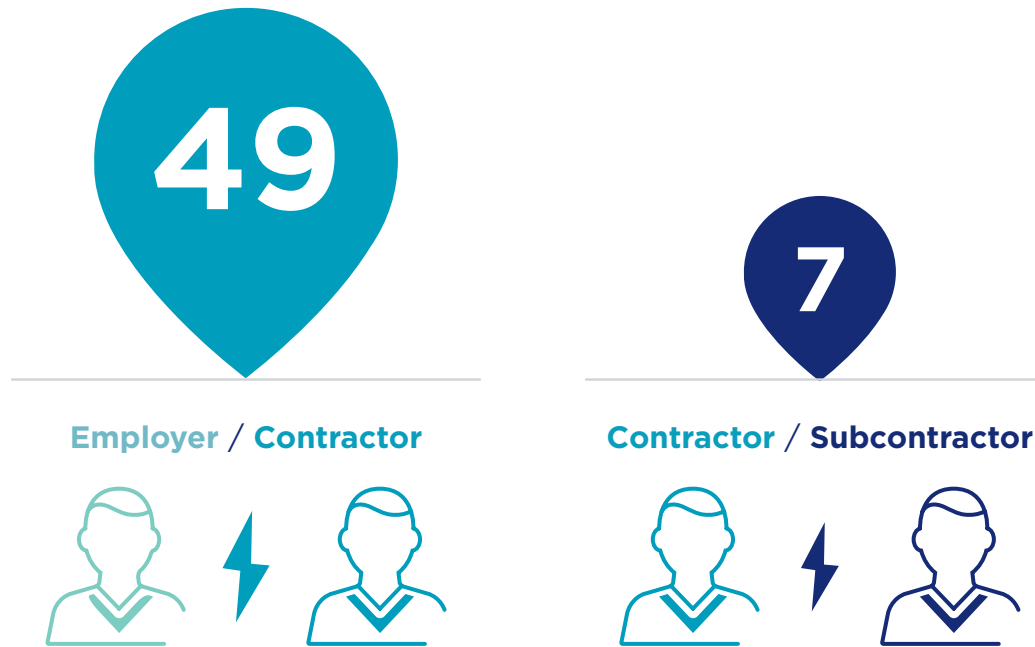
\*Please note - as some of the individual adjudications analysed included multiple answer to each question, the totals may be skewed against the total number of adjudications recorded.

# Nature of Dispute

Claim for payment of outstanding monies/ incorrect certification	14	
Claim for extension of time and time related costs	32	
Defective work	1	
Enforcement of contractual right e.g. to obtain taking over certificate	2	
Claim for penalties or other <i>contra charges</i>	1	
<b>OTHER:</b>		
Whether a public holiday constitutes a compensation event	2	
Monies for direct costs/ works	1	
The contractor requested the Adjudicator to review & set aside the Project Manager's response and to allow the contractor to submit a quotation following a notice of this compensation event	7	
Contract amendment	1	
Reviewing and set aside of penalties imposed	1	

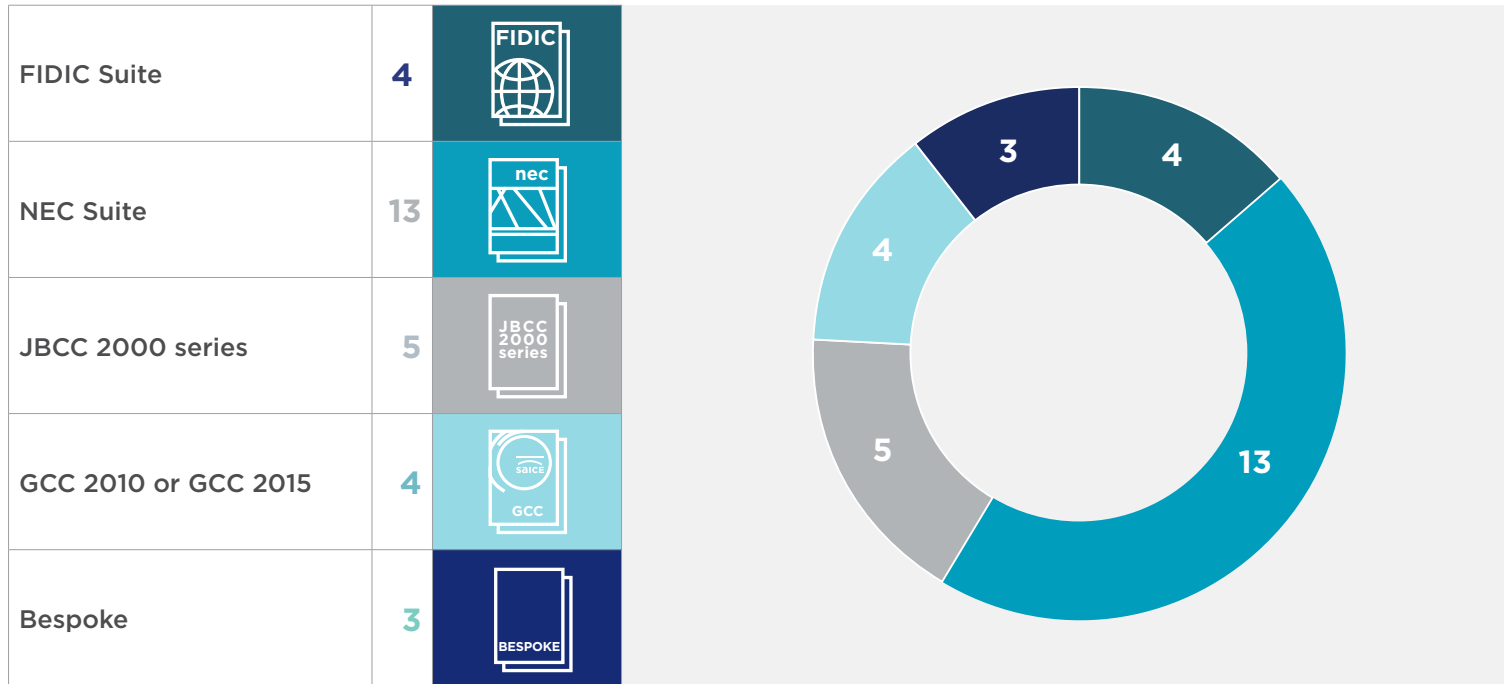
The most common disputes referred to adjudication during the 2019 year were those in respect of claims for extension of time and time related costs. This is a continuation of the 2017 and 2018 trend.

# Parties to the Dispute



Similar to previous years, the majority of the disputes handled by MDA involved disputes between contractors and employers, with only 7 out of 56 disputes between subcontractor and contractor. The number of disputes between contractor and subcontractor has however increased year on year.

# Conditions of Contract



As with previous surveys the NEC makes up the largest portion of the contracts creating disputes. Second in line this year is the JBCC and interestingly this year we have seen an increase of disputes under bespoke contracts.

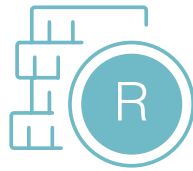
# Monetary value of dispute

20



Less than  
R1 mill

14



R1 mill to  
R5 mill

7



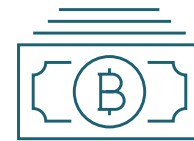
R5 mill to  
R 10 mill

3



R10 mill to  
R20 mill

2



R20 mill to  
R50 mill

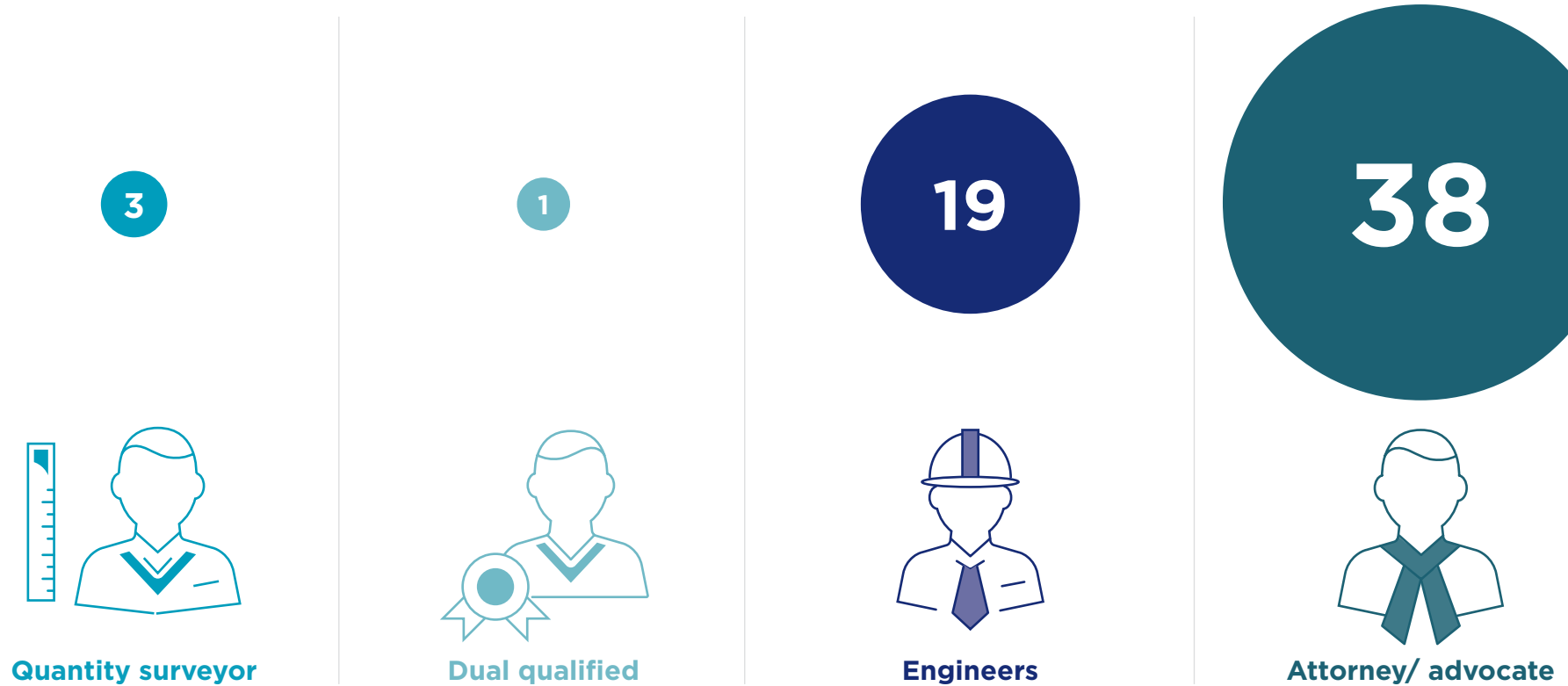
1



More than  
R50 mill

Continuing the common trend, a large majority of the disputes referred to adjudication dealt with monetary values of R5 million and less.

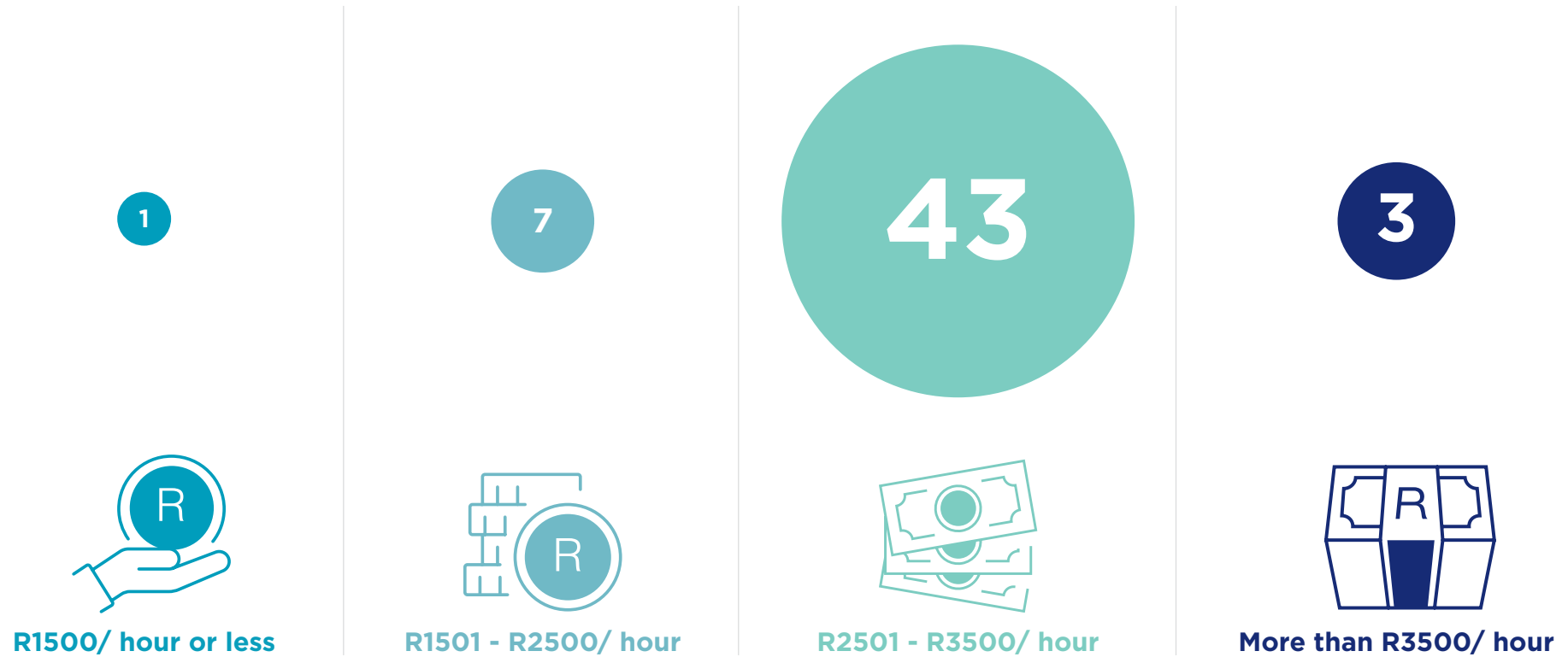
# Qualification of adjudicator



Once more attorneys and engineers make up the majority of the adjudicators. Most DAB's appeared to contain at least three members with an even spread of qualifications.

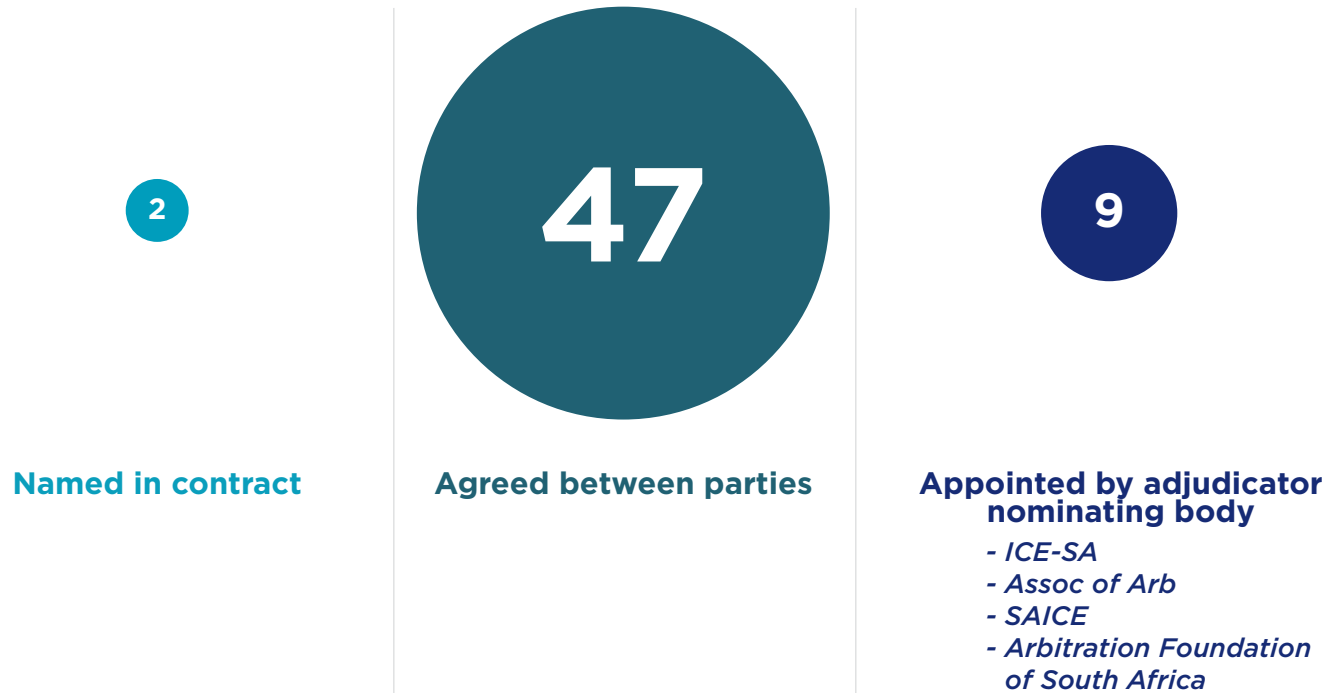


# What was adjudicator's hourly rate?



In contrast to the 2018 results, this year there appears to be a more consistent rate set for adjudicator hourly rates.

# Appointment of the adjudicators. How was the adjudicator appointed.



This years data once again showed most adjudicators being appointed via agreement between parties.

# Was there a hearing?



Yes



No

# Was there a settlement reached during the adjudication process?



Yes



No

# If dispute an Employer/ Contactor dispute then decision in favour of



**Employer**



**Contractor**

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

4



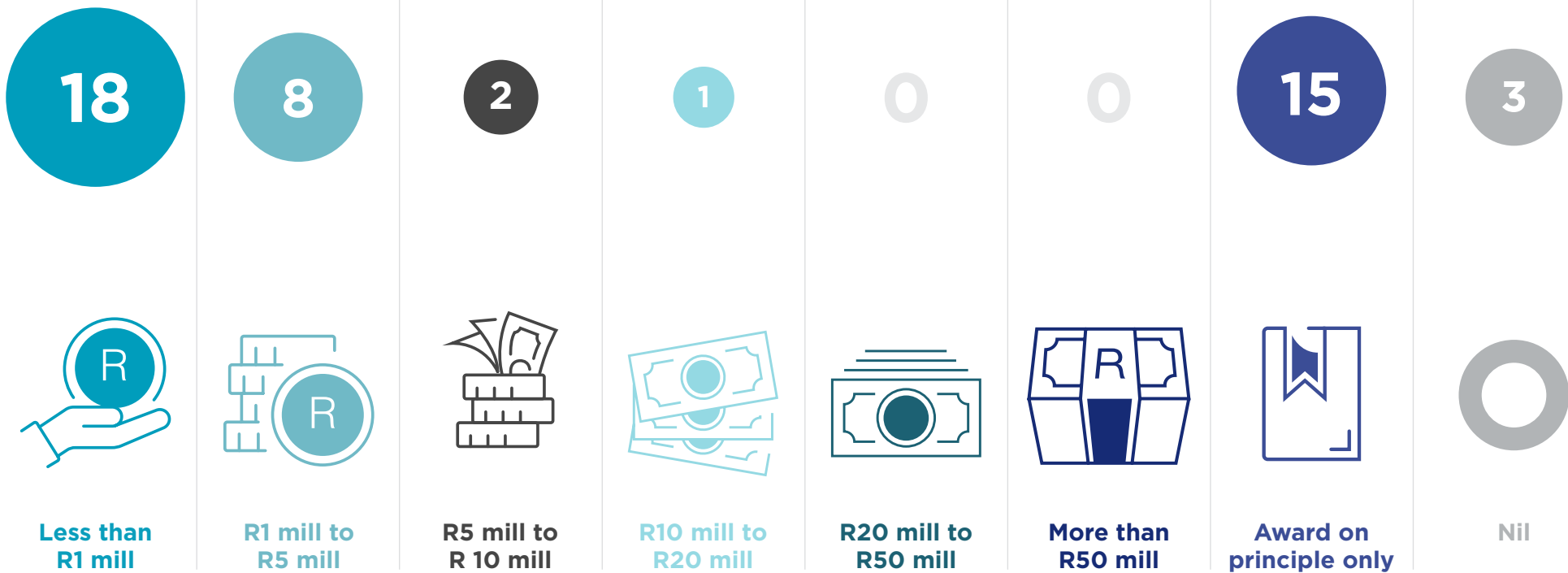
**Subcontractor**

5



**Contractor**

# Monetary value of decision



In correlation to the value of the disputes, most decisions were in the region of less than R1 million. A large number of awards were based on principle only.

# Did the adjudicator issue his/her decision in time

No

56

Yes

All 56 adjudications had the decision issued on time. This is a good indication of the effectiveness of adjudication in resolving issues timeously.

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



Yes



No



Time period is yet to expire