

# 2025

## Adjudication Survey



Construction & Technology Attorneys

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# Introduction

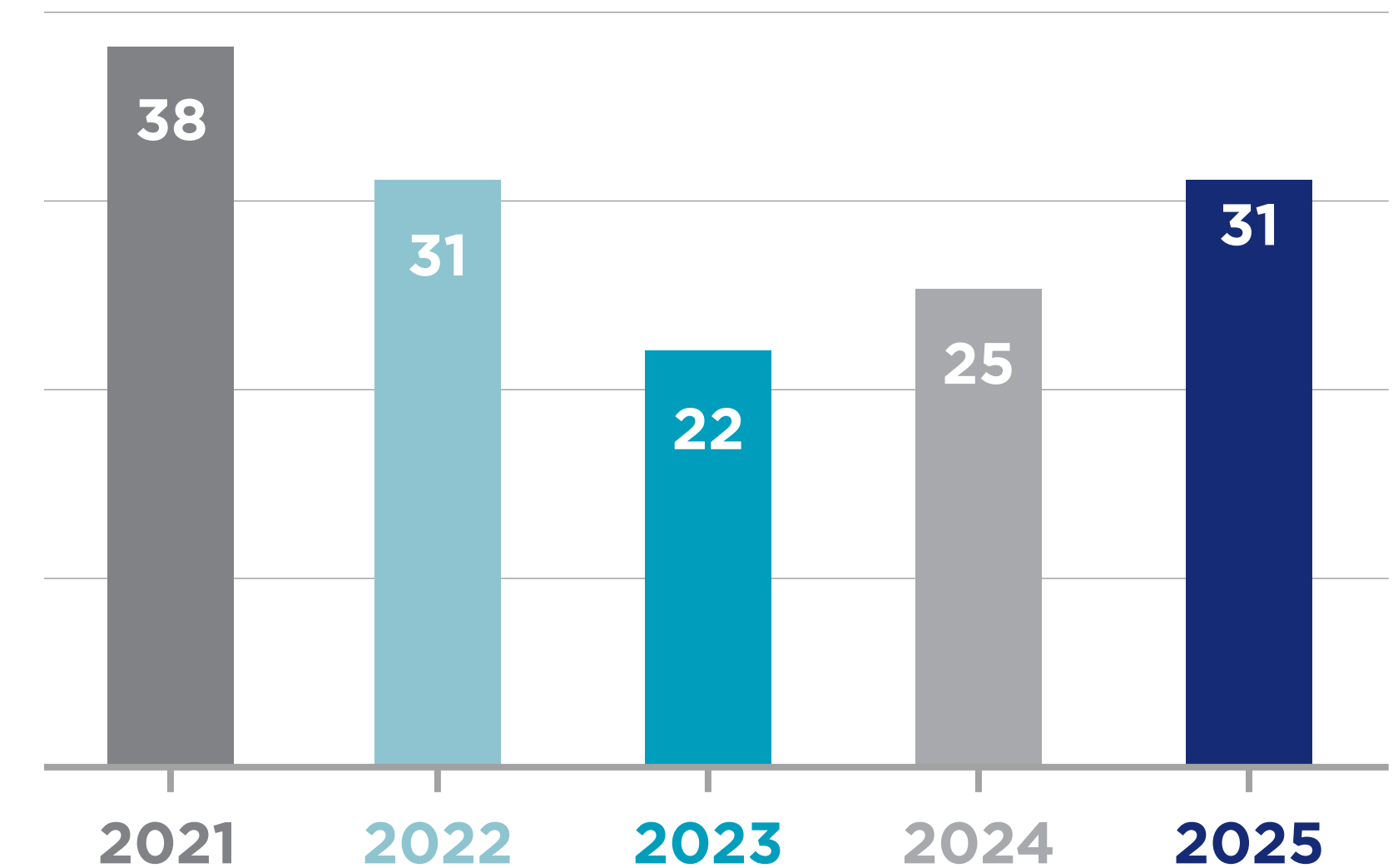
The MDA Adjudication Survey aims to provide some (albeit limited) statistical information regarding the state of adjudication in South Africa.

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, 2025 and 31 December, 2025. MDA assisted with **31** adjudications during this period, where decisions were handed down.

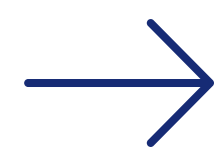
The survey does not attempt to provide a representation of statistics of all adjudications in South Africa but simply provides analysis taken from these **31** adjudications and provides some interesting insight.

The year-on-year increase reflects the steady growth in the construction sector with a greater number of construction projects taking place.



# Nature of dispute

	<b>2025</b>
Claim for payment of outstanding monies/ incorrect certification	<b>19</b>
Claim for extension of time and time related costs	<b>12</b>
Enforcement of contractual rights e.g. to obtain taking over certificate	<b>3</b>
Claim for expense and loss	<b>1</b>
PM's assessment of quantification of changes to Prices for a CE	<b>1</b>
Reversal of delay damages	<b>1</b>
Determine if contract was validly concluded	<b>1</b>



In a fundamental shift in the nature of disputes being referred to adjudication, the most common disputes referred to adjudication during the 2025 year were those in respect of claims for payment of outstanding monies or incorrect certification followed by claims for extension of time and time related costs.

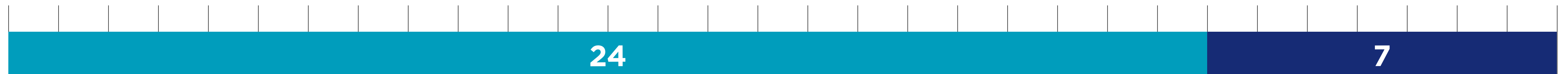
\* Note - some adjudications include multiple natures of dispute.

# Cause of dispute

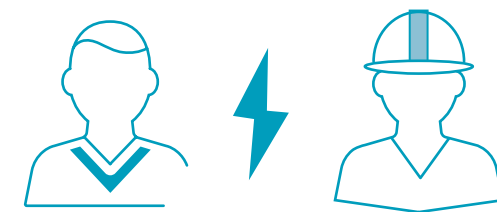
Claim for payment due in terms of contract (interest, CPA etc...)	<b>15</b>
Changes instructed by the employer during construction (i.e. variation and the valuation thereof)	<b>3</b>
Lack of information or delay in addressing such lack of information	<b>2</b>
Inadequate contract administration – non-response to claims and variations	<b>2</b>
Uncontrollable external events – strikes, weather, construction mafia etc.	<b>3</b>
Ambiguous contract terms or inadequate contract documentation	<b>3</b>
Incomplete tender information	<b>2</b>
Defective performance by contract participants	<b>3</b>
Reversal of delay damages	<b>1</b>
Unforeseen physical conditions	<b>1</b>

\* Note – some adjudications include multiple causes of dispute.

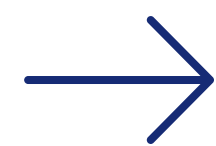
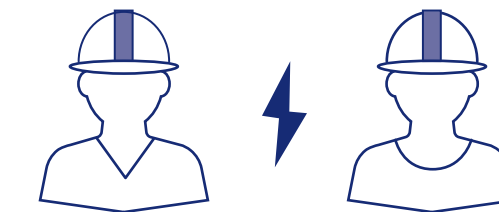
# Parties to the dispute



■  
**Employer / Contractor**



■  
**Contractor / Subcontractor**



A trend we are starting to observe is the slow growth in disputes between contractor and subcontractors.

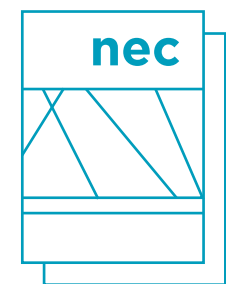
# Conditions of contract




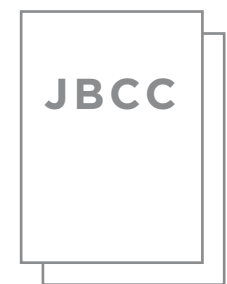
 **FIDIC Suite**



 **NEC Suite**



 **JBCC Suite**



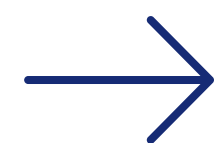
 **GCC Suite**



 **MBSA**

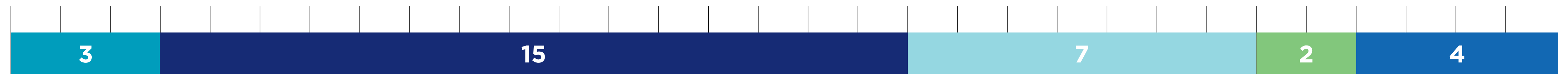


 **BESPOKE**



In previous years the highest ranking contract causing disputes has predominantly been the NEC, we see this trend again in 2025. The JBCC and FIDIC make up the second largest portion of the contracts creating disputes. This year there was a more even spread.

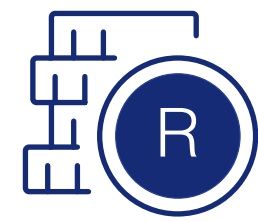
# Monetary value of dispute



■  
Less than  
R1 mill



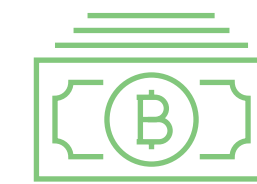
■  
R1 mill to  
R10 mill



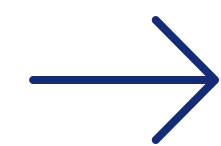
■  
R10 mill to  
R25 mill



■  
R25 mill to  
R50 mill

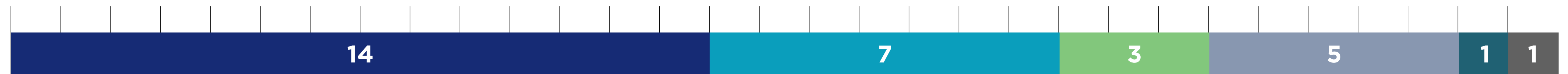



■  
N/A



The majority of disputes referred in the 2025 year period fell into the region of R1 to R10 million. Which is reflective of the types of dispute referred to adjudication.

# Qualification of adjudicator



 **Engineer**



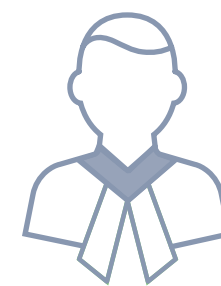
 **Quantity Surveyor**



 **Attorney**



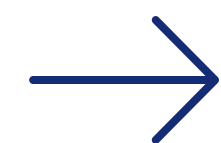
 **Advocate**



 **Dual Qualified**

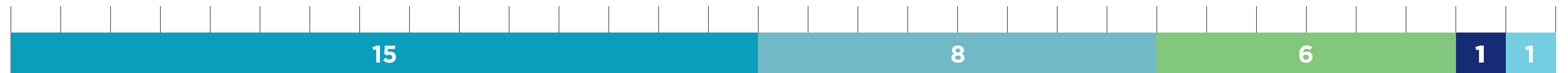



 **Other:  
DAB - 1**



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. Again there was a more even spread.

# What was adjudicator's hourly rate?



  
**R2500/  
 hour or less**



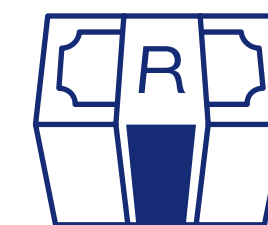
  
**R2501 - R3500/  
 hour**



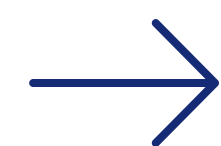
  
**R3501 - R5000/  
 hour**



  
**More than R5001/  
 hour**

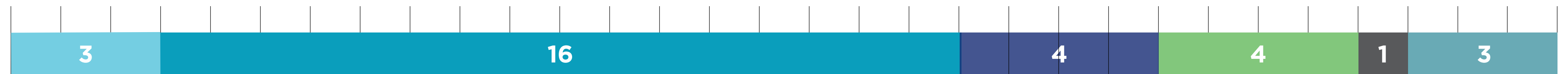


  
**Undisclosed/  
 Unknown**



The most common band of rate charged per hour for an adjudication in 2025 falls into the region of R2500/ per hour or less. There is a direct correlation between this hourly rate and the qualification of the adjudicators noted in the previous slide.

# Appointment of the adjudicator

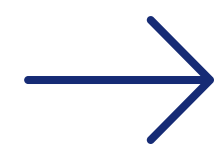


Named in the contract

Agreed between parties

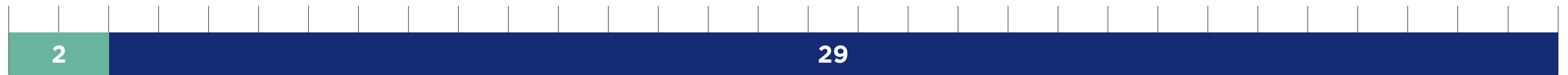
Appointed by adjudicator nominating body

- Assoc of Arb
- SAICE
- AFSA
- MBSA



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

# Was there a hearing?



Yes

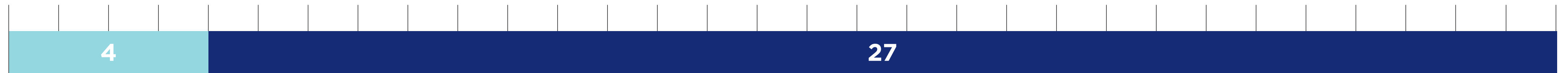


No



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.

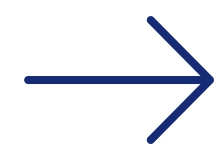
# Was there a settlement reached during the adjudication process?



Yes



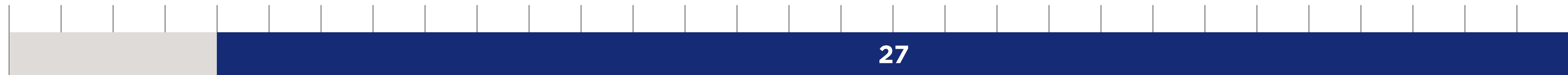
No



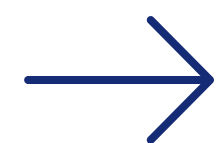
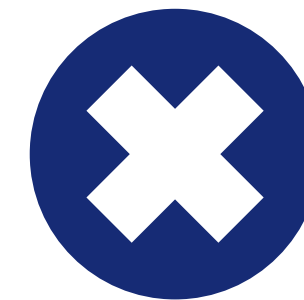
In the past it was rare for parties to reach a settlement during adjudication proceedings, this is certainly a new trend being seen in the industry.

\* Note - the balance of the survey is based on the 27 adjudications not settled.

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

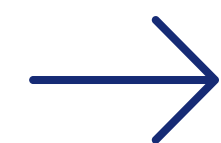
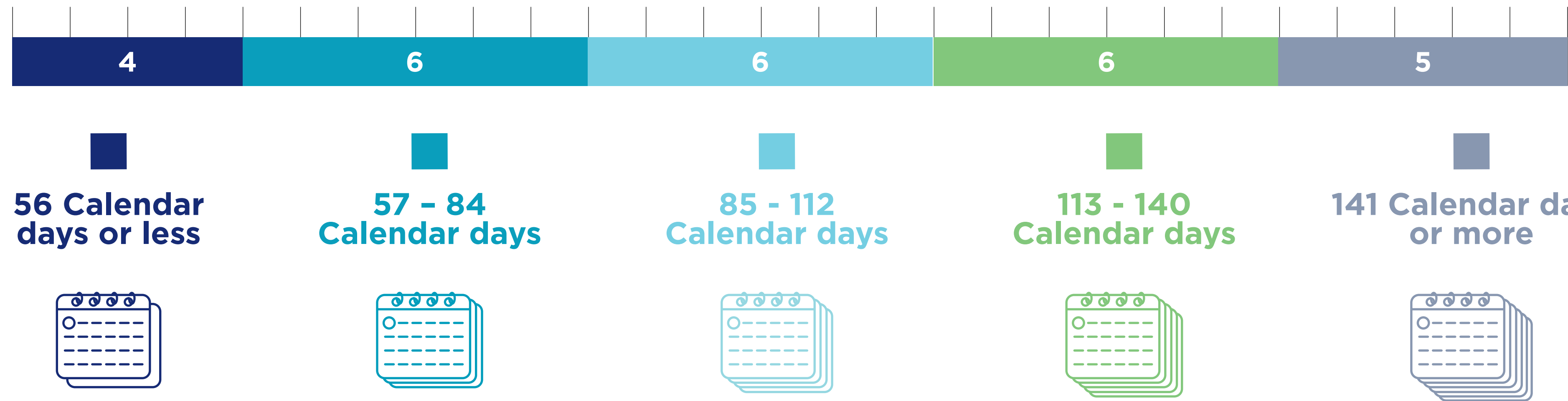


No



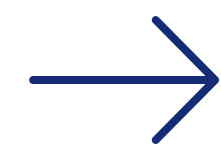
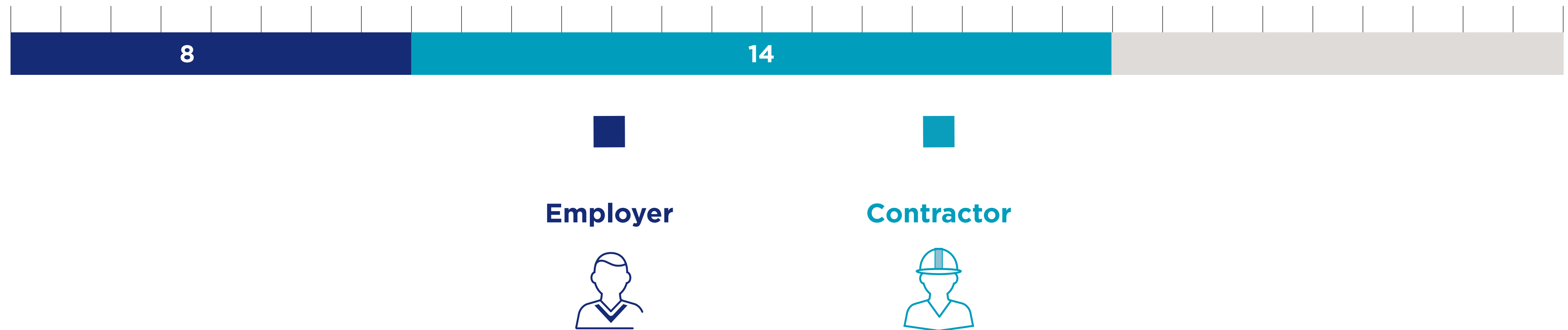
Of the remaining 27 adjudications, none of these were converted into an arbitration prior to the decision being published.

# Actual duration of adjudication proceedings (from referral to publication of decision)



An even spread in duration can be seen in the remaining 27 adjudications.

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



Of the remaining 27 adjudications, the decision where the dispute involved an employer and contractor, the large majority was in favour of the contractor. This data is unsurprising given that the contractor is typically the referring party in an adjudication.

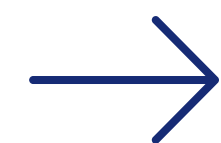
# If dispute a Contractor/ Subcontractor dispute then decision in favour of



■  
**Contractor**

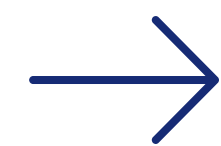


■  
**Subcontractor**



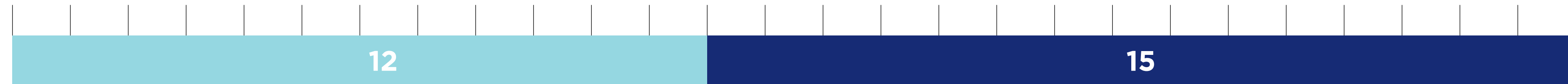
The balance of the adjudications were in favour of the contractor against the subcontractor.

# Monetary value of decision



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. In 2025 we see an almost even split.

## CONTACT US

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