

Status of Business Rescue Proceedings in South Africa

June 2018

1. Purpose of the Business Rescue Proceedings Report:

The purpose of this report is to provide a statistical overview of the status of business rescue proceedings within South Africa based on applications submitted to the Companies and Intellectual Property Commission.

The report below covers the period of 1 May 2011 (inception of Chapter 6 of the Companies Act, 2008) to 30 June 2018. This report does not provide statistical comparisons with previous years. For the yearly comparisons, refer to previous reports.

*Notes to report:

- For purposes of determining the volume of proceedings started, invalid filings are disregarded since in such instances the proceedings never commenced.
- Practice note 3 of 2014 were issued during July 2014. Such practice note indicates the documentary and content requirements for CoR123.1, CoR125.2 and CoR125.3.

2. Business Rescue Proceedings Status:

The below table reflects the status of commenced business rescue proceedings from inception of business rescue on 1 May 2011 to June 2018.

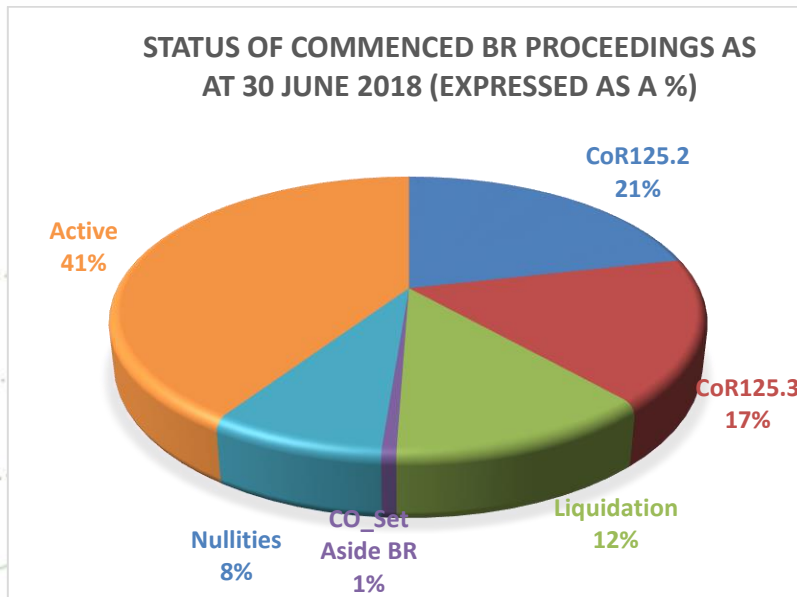
Operational BR Proceeding Applications	2011 - 2012	2012 - 2013	2013 - 2014	2014 - 2015	2015 - 2016	2016 - 2017	2017 - 2018	2018-2019	Total
Business Rescue Proceedings Started	382	440	409	413	481	379	363	86	2953
Invalid filings	61	27	24	42	12	6	5	0	177
Business Rescue Proceedings Ended	320	302	272	255	289	198	109	7	1752
CoR125.2	71	108	83	83	139	86	60	4	634
CoR125.3	82	104	98	80	67	54	17	0	502
Liquidation	57	57	64	62	59	40	18	0	357
CO_Set Aside BR	2	5	6	4	0	2	1	0	20
Nullities (Proceedings started but was declared a nullity)	108	28	21	26	24	16	13	3	239
Active as at 30 June 2018	62	138	137	158	192	181	254	79	1201
Active as at 31 March 2018	62	142	140	163	193	195	281	N/A	1176
Active as at 31 March 2017	70	167	169	201	248	286	1141		
Active as at 31 March 2016	86	181	189	250	422	1129	N/A		



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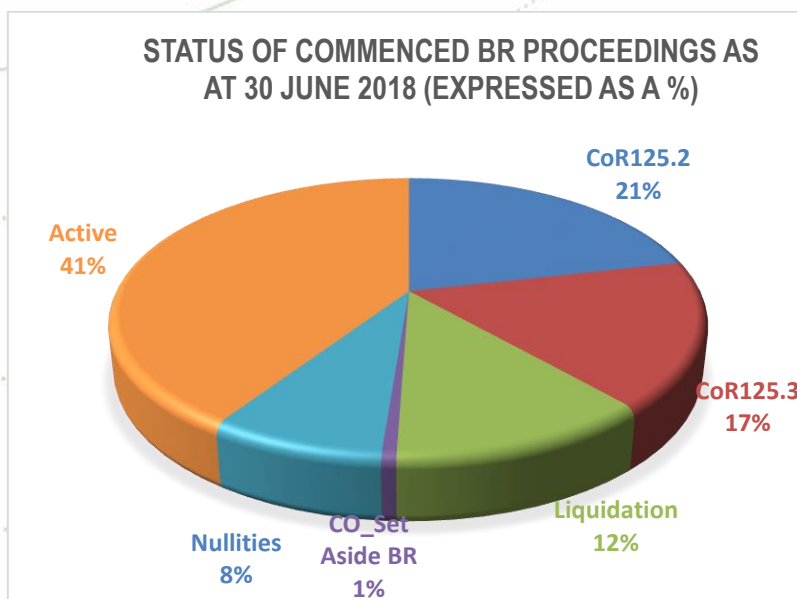
Diagram 1 indicates the percentage comparison between the different statuses of commenced business rescue proceedings.



From the 2953 cases (invalid filings are not included since the proceedings never commenced) for which business rescue proceedings commenced:-

- 239 proceedings became a nullity in law;
- 634 proceedings was terminated by way of filing a Notice of Termination (CoR125.2);
- 502 proceedings was substantially implemented by way of filing a Notice of Substantial Implementation (CoR125.3);
- 357 proceedings ended up directly in liquidation without a Notice of Termination (CoR125.2) being filed;
- 20 proceedings the court set aside the business rescue proceedings; and
- 1201 proceedings is still in business rescue.

Diagram 1 indicates the percentage comparison between the different statuses of commenced business rescue proceedings.



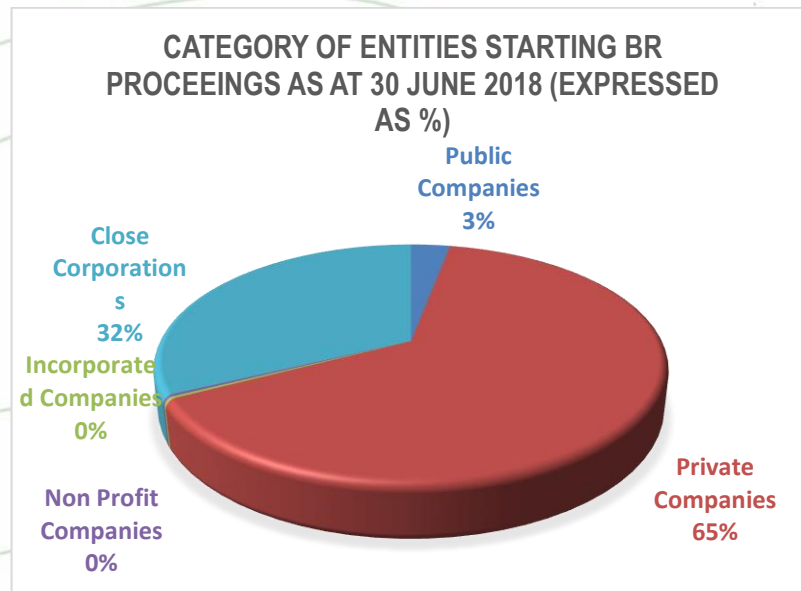


3. **Business Rescue Proceedings Started Per Category Of Entity.**

The below table indicates the volume of commenced business rescue proceedings for each entity category.

BR proceedings started	Total	2011 - 2012	2012 - 2013	2013 -2014	2014 -2015	2015-2016	2016-2017	2017 -2018	2018-2019
Public Companies	88	53	9	7	8	5	3	2	1
Private Companies	1900	240	281	257	266	297	241	253	65
Incorporated Companies	8	0	3	0	0	1	2	2	0
Non Profit Companies	8	0	0	2	2	1	2	1	0
Close Corporations	949	89	147	143	137	177	131	105	20
Total	2953	382	440	409	413	481	379	363	86

Diagram 2 indicates the percentage comparison for the different entity categories of commenced business rescues.



Business rescue is mostly utilised by private companies. 65% of entities applying for business rescue are private companies while only 32% are close corporations.



4. Business Rescue Proceedings Started Per Province:

The below table indicates the volume of commenced business rescue proceedings for each of the nine provinces.

Province (start BR)	Total	2011 - 2012	2012 - 2013	2013 - 2014	2014 - 2015	2015-2016	2016-2017	2017 -2018	2018-2019
Gauteng	1204	54	102	216	215	234	162	177	44
Free State	91	11	7	14	17	12	12	16	2
Northern Cape	16	1	2	0	3	3	5	2	0
Eastern Cape	112	3	11	24	15	28	14	17	0
Western Cape	394	44	33	49	71	76	60	44	17
North West	112	3	9	24	21	18	25	7	5
Limpopo	79	3	4	6	15	18	13	16	4
Mpumalanga	103	5	10	10	18	17	18	22	3
Kwa-Zulu Natal	263	1	6	52	34	56	50	53	11
Not Provided	579	257	256	14	4	19	20	9	0
Total	2953	382	440	409	413	481	379	363	86

Breakdown of Entities Starting BR Proceedings as at 30 June 2018 Per Province (expressed in volume)

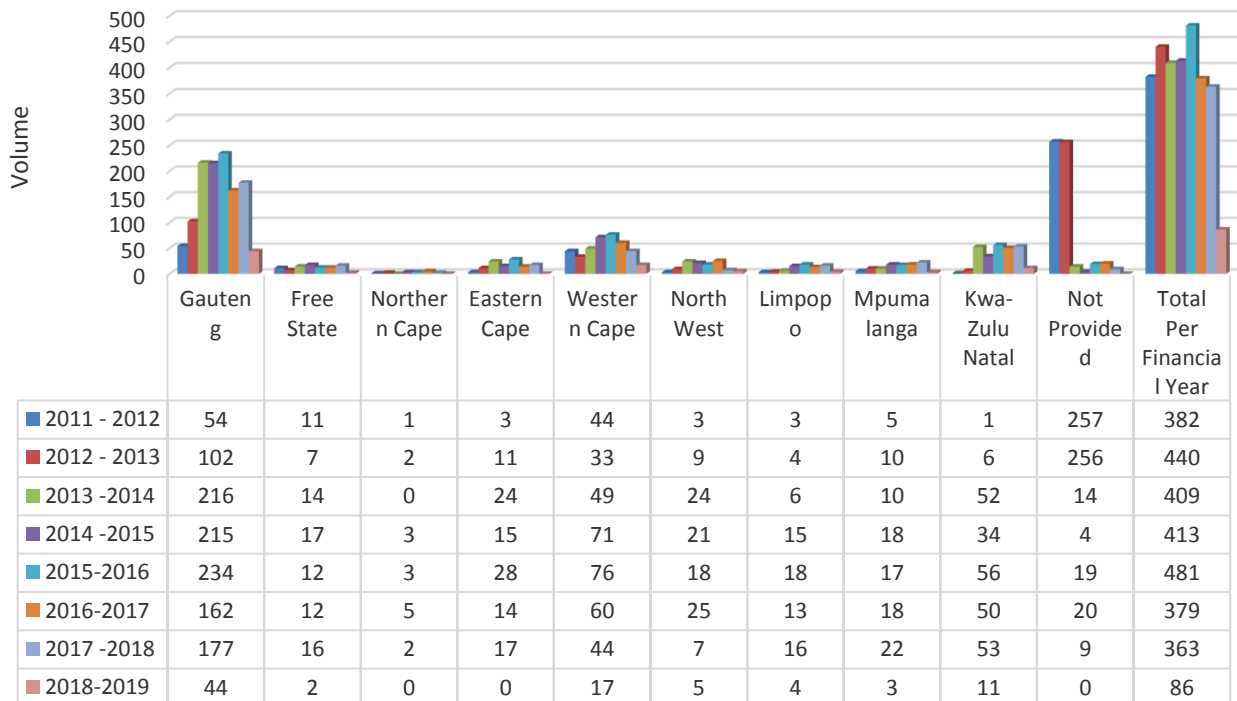
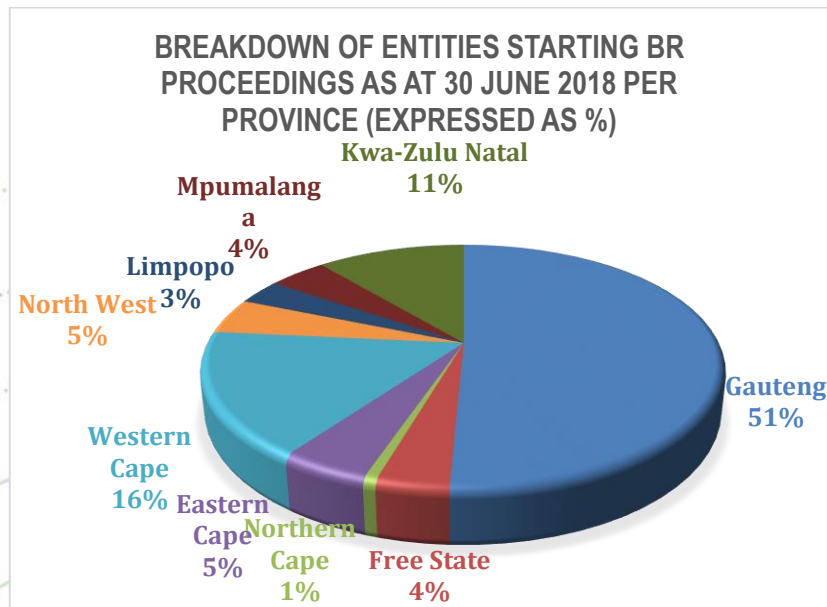




Diagram 3 reflects the overall breakdown for each of the nine provinces as from inception of business rescue expressed as a percentage. It is clear from the diagrams that 51% of businesses commencing business rescue, resides with Gauteng. Gauteng is followed by the Western Cape (16%) and then Kwa-Zulu Natal (11%).



5. Notice of Termination (CoR125.2) Filed:

5.1. Breakdown of Notice of Termination (CoR125.2) Filed:

The below table indicates the volume of CoR125.2 filed for commenced business rescue proceedings. It should be noted that a CoR125.2 may be received during a specific financial year but the filing of the document will be recorded against the year for which the business rescue proceedings commenced. Example, the CoR125.2 may be filed January 2015 but the proceedings commenced during the 2011-2012 financial year and therefore the CoR125.2 will be recorded against the 2011-2012 financial year in the below table.

Termination Type	Total	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2017 - 2018	2018-2019
Termination - Unspecified	29	18	6	2	0	0	1	2	0
Termination - Liquidation	201	19	47	28	19	42	25	19	2
Termination - Not distressed	372	31	50	44	58	92	58	37	2
Termination - Plan not accepted	25	3	5	7	1	5	2	2	0
Termination - BRP personal	5	0	0	1	4	0	0	0	0
Termination - Plan not published	2	0	0	1	1	0	0	0	0
Total as per 30 June 2018	634	71	108	83	83	139	86	60	4
Total as per 31 March 2018	602	71	106	82	82	138	79	44	
Total as per 31 March 2017	471	72	96	74	72	120	37	N/A	
Total as per 31 March 2016	319	69	88	68	58	36	N/A	N/A	

*Notes:

Termination = reason for termination not specified

Termination – Liquidation = BRP terminates proceedings in order for entity to start liquidation proceedings

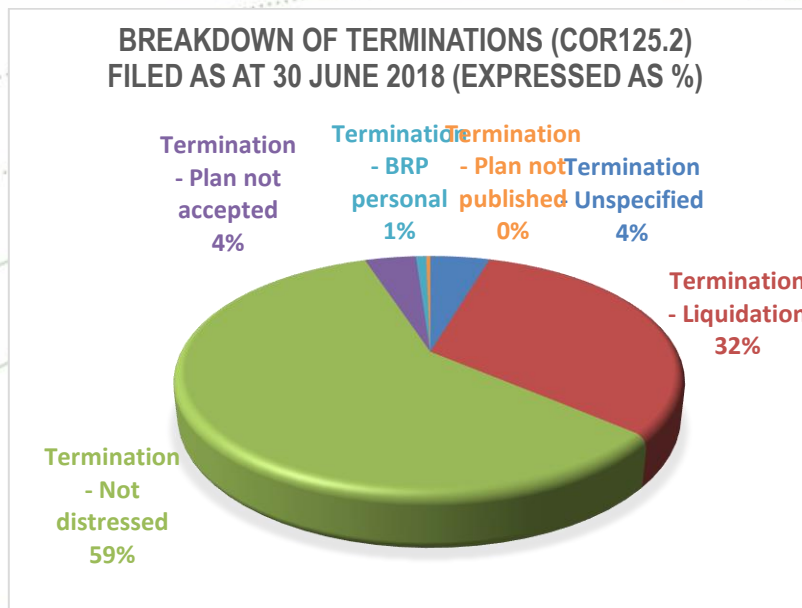
Termination – Not distressed = BRP terminates proceedings due to the fact that entity is not financially distressed

Termination – Plan not accepted = BRP notifies CIPC that plan was not accepted and no further action was taken by an affected person to extend the proceedings

Termination – person = BRP notifies CIPC that he is removing/resigning himself from the matter due to personal reasons

Termination – Plan not published = BRP notified CIPC that the plan was not published in order for it to be considered for approval

Diagram 4 reflects the overall breakdown of the main reasons for terminations being submitted.



5.2. Age analysis on Terminations (CoR125.2) filed:

Age Analysis	Average Period	2 Months	3 Months	4 Months	5 Months	6+ Months
As at 30 June 2018	11.18 months	26.67%	5.41%	7.57%	7.21%	53.15%
As at 30 September 2017	5.87 months	14.85%	3.95%	49.81%	4.89%	26.50%
As at 30 August 2017	10.73 months	25.24%	5.01%	7.71%	7.51%	54.53%
As at 31 July 2017	9.85 months	25.85%	5.21%	8.02%	7.82%	53.11%
As at 30 June 2017	9.63 months	26.41%	5.24%	8.06%	7.86%	52.42%
As at 31 March 2017	9.29 months	26.29%	5.33%	8.10%	7.89%	52.45%
As at 31 December 2016	9.29 months	26.49%	4.86%	8.17%	7.95%	52.54%
As at 31 October 2016	8.15 months	28.08%	4.93%	8.87%	8.13%	50.00%
As at 30 September 2016	8.15 months	28.14%	5.03%	8.79%	8.29%	49.75%
As at 30 June 2016	8.16 months	26.37%	4.40%	9.34%	9.07%	50.82%
As at 31 March 2016	8.23 months	29.02%	4.73%	9.15%	8.83%	48.26%
As at 31 December 2015	7 months	32%	4%	10%	5%	49%



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6. Substantial Implementations (CoR125.3) filed:
6.1. Age analysis on Substantial Implementations (CoR125.3) filed:

Age Analysis	Average Period	2 Months	3 Months	4 Months	5 Months	6+ Months
As at 30 June 2018	15.34 months	6.80%	3.60%	3.60%	5.20%	80.80%
As at 30 September 2017	14.06 months	7.27%	3.86%	3.86%	5.23%	79.77%
As at 30 August 2017	13.94 months	7.42%	3.94%	3.94%	5.10%	79.42%
As at 31 July 2017	13.95 months	7.35%	3.79%	4.03%	5.21%	79.62%
As at 30 June 2017	13.93 months	7.67%	3.84%	4.08%	5.28%	79.14%
As at 31 March 2017	13.55 months	7.83%	4.04%	4.29%	5.56%	78.28%
As at 31 December 2016	13.58 months	8.05%	3.64%	3.90%	5.71%	78.70%
As at 31 October 2016	13.91 months	8.24%	3.85%	4.12%	5.49%	78.30%
As at 30 September 2016	13.83 months	8.12%	3.92%	4.20%	5.60%	78.15%
As at 30 June 2016	13.31 months	7.41%	3.70%	4.63%	4.94%	79.32%
As at 31 March 2016	12.31 months	9.39%	4.21%	4.85%	5.50%	76.05%
As at 31 December 2015	12 months	10%	5%	5%	5%	76%

7. Liquidation Documents Filed:
6.1 Breakdown of Liquidations Filed:

The below table indicates the volume of liquidation applications and court orders filed for entities which commenced business rescue proceedings without the proceedings being terminated or business rescue plan being substantially implemented. It should be noted that a liquidation application or court order may be received during a specific financial year but the filing of the document will be recorded against the year for which the business rescue proceedings commenced. Example, the liquidation application may be filed January 2015 but the proceedings commenced during the 2011-2012 financial year and therefore the liquidation application will be recorded against the 2011-2012 financial year in the below table.

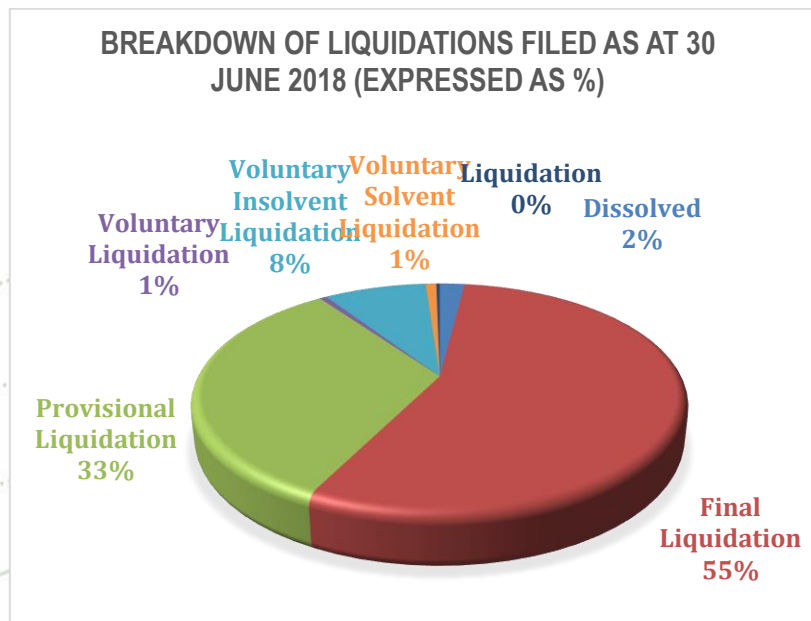
Liquidation Type	Total	2011 - 2012	2012 - 2013	2013 - 2014	2014 - 2015	2015-2016	2016-2017	2016 - 2017	2018-2019
Dissolved	7	3	4	0	0	0	0	0	0
Final Liquidation	198	23	27	47	36	37	21	7	0
Provisional Liquidation	117	10	15	14	26	22	19	11	0
Voluntary Liquidation	2	1	1	0	0	0	0	0	0
Voluntary Insolvent Liquidation	29	17	10	2	0	0	0	0	0
Voluntary Solvent Liquidation	3	3	0	0	0	0	0	0	0
Liquidation	1	0	0	1	0	0	0	0	0
Total as per 30 June 2018	357	57	57	64	62	59	40	18	0
Total as per 31 March 2018	352	57	56	63	61	59	40	16	
Total as per 31 March 2017	259	54	46	53	44	42	20		
Total as per 31 March 2016	197	50	47	52	34	14	N/A		



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Diagram 5 reflects the overall breakdown of the main liquidation statuses for entities which commenced business rescue proceedings.



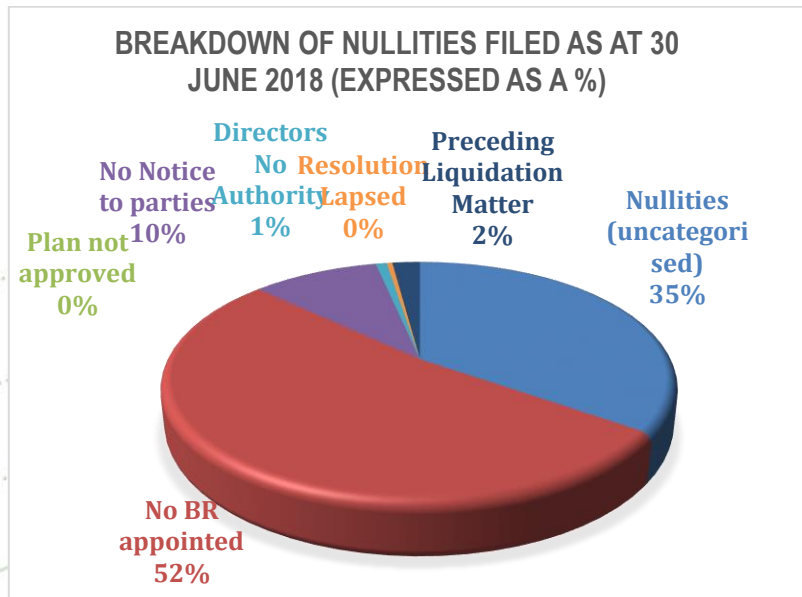
8. Nullities filed:

From the 2953 business rescue proceedings which commenced, 239 was declared a nullity. Therefore, 8.1% of all commenced proceedings ended in a nullity.

Nullities	Total	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019
Nullities (uncategorised)	83	39	14	6	15	4	5	0	0
No BR appointed	125	68	10	7	3	14	11	9	3
Plan not approved	0	0	0	0	0	0	0	0	0
No Notice to parties	23	1	4	6	6	4	0	2	0
Directors No Authority	2	0	0	2	0	0	0	0	0
Resolution Lapsed	1	0	0	0	1	0	0	0	0
Preceding Liquidation Matter	5	0	0	0	1	2	0	2	0
Total Nullities	239	69	14	8	11	20	11	13	3



Diagram 6 indicates the breakdown of the reason for nullities.

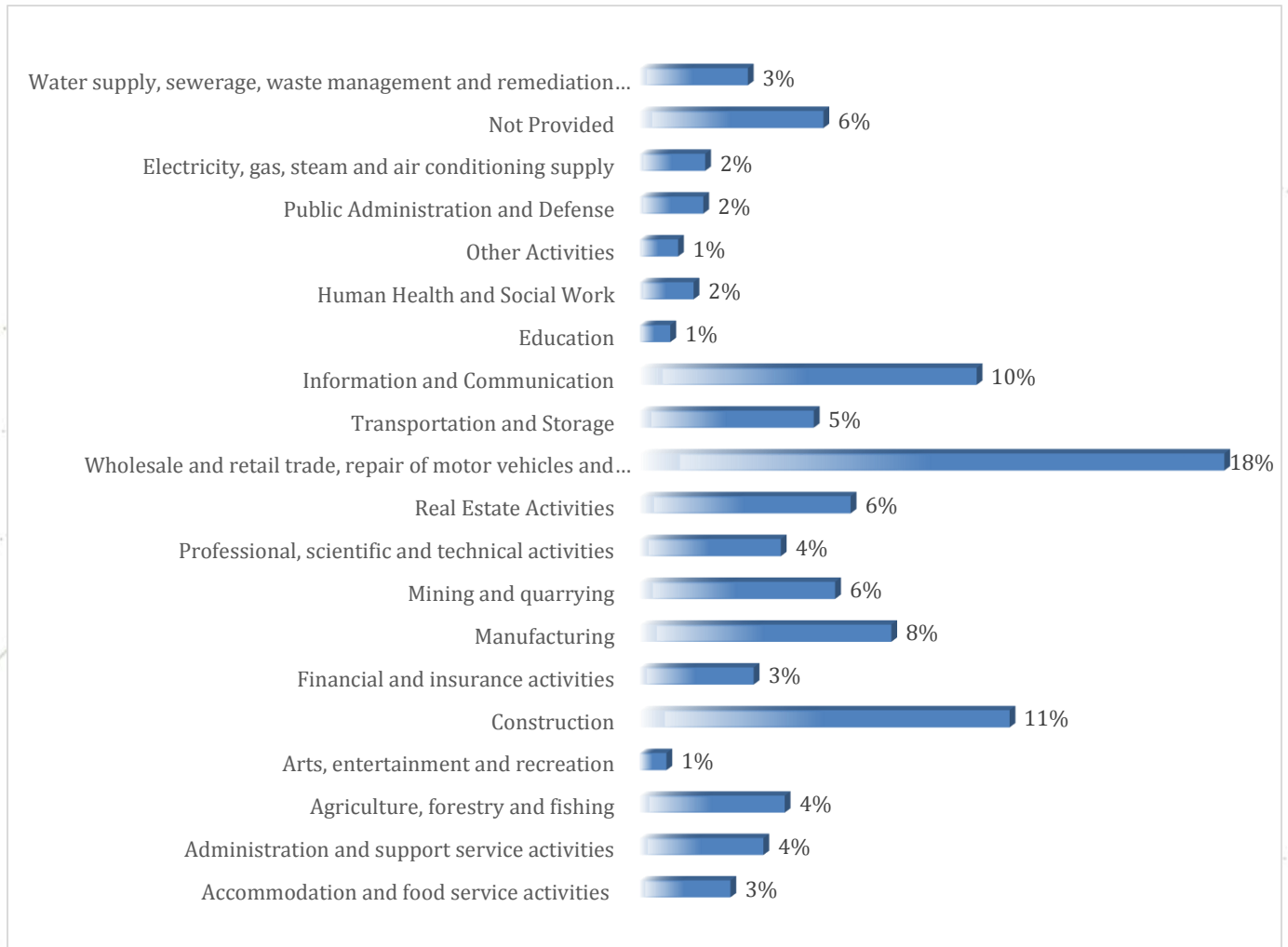


9. Business Rescue Proceedings Started Per Industry:

The below table indicates the volume of commenced business rescue proceedings for each of the classified industries.

Industry	Total	2014-2015	2015-2016	2016-2017	2017 - 2018	2018-2019
Accommodation and food service activities	47	3	1	17	22	4
Administration and support service activities	64	19	26	13	6	0
Agriculture, forestry and fishing	75	6	24	25	16	4
Arts, entertainment and recreation	14	2	4	4	3	1
Construction	191	34	64	39	42	12
Financial and insurance activities	59	2	20	16	17	4
Manufacturing	130	0	43	35	41	11
Mining and quarrying	101	24	25	11	36	5
Professional, scientific and technical activities	73	0	26	18	23	6
Real Estate Activities	109	0	33	35	36	5
Wholesale and retail trade, repair of motor vehicles and motorcycle	302	28	114	84	60	16
Transportation and Storage	90	26	25	18	14	7
Information and Communication	174	146	13	8	5	2
Education	16	7	2	5	1	1
Human Health and Social Work	28	13	3	2	9	1
Other Activities	20	0	7	11	2	0
Public Administration and Defence	33	26	5	1	1	0
Electricity, gas, steam and air conditioning supply	34	21	6	2	2	3
Not Provided	95	0	36	33	23	3
Water supply, sewerage, waste management and remediation activities	56	45	4	2	4	1
Total	1711	402	481	379	363	86

Diagram 7 reflects the overall % breakdown of the industries commencing business rescue proceedings



***Notes:**

As from 1 August 2014 the primary industry within which the entity is conducting business is recorded. No information available on industry prior to such date.

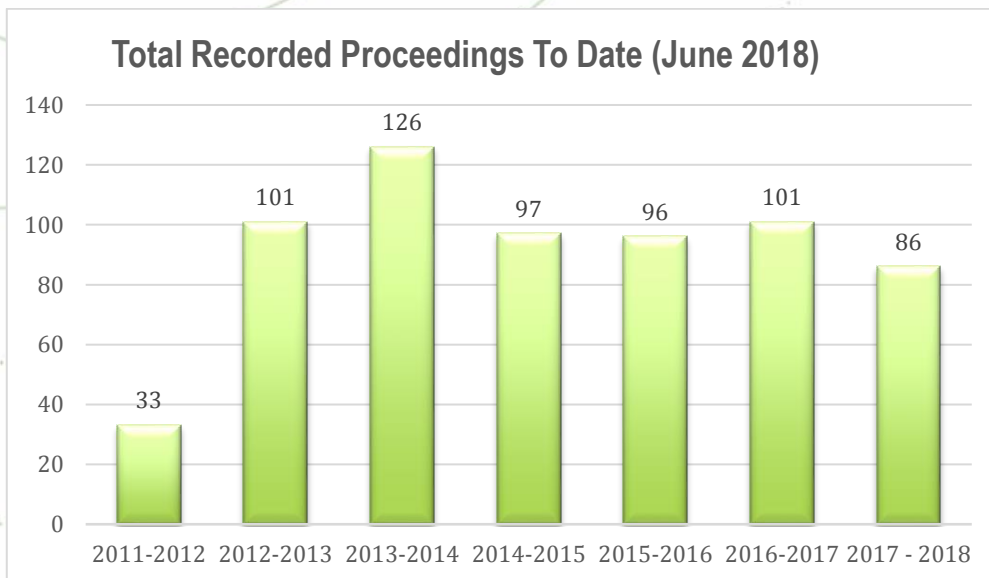


10. Total Recorded Proceedings:

The below graph reflects the volume of commenced business rescue proceedings from inception of business rescue up until 30 June 2018.

Month	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2017 - 2018	2018-2019
April	N/A	30	39	24	42	25	16	18
May	5	45	50	39	33	40	27	40
June	28	26	37	34	21	36	43	27
July	25	23	47	43	67	40	23	1
August	38	59	49	66	56	45	33	0
September	81	55	26	42	34	29	41	0
October	27	47	45	44	57	34	32	0
November	42	56	28	34	55	32	47	0
December	59	18	14	25	21	22	18	0
January	67	14	35	31	22	23	25	0
February	43	44	31	24	47	28	32	0
March	28	50	32	49	38	31	30	0

Diagram 8 and 9 reflects the overall breakdown of the volume of new matters recorded for each financial year. There is a clear decrease in new matters being reported compared with the previous two reporting periods.





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