



INDEPENDENT MEDIATION
SERVICE OF SOUTH AFRICA

The IMSSA Review

Number 12

June 1992



From: Tokiso Archives
Donated by: Tanya Venter
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INTRODUCTION

IMSSA is going through a period of sustained growth. This is reflected in the increasing use of IMSSA's services in 1991 and in the first five months of 1992.

To cope with the increasing demand for its services, IMSSA is adopting a greater presence nationally. The Natal regional office is well established and a Western Cape office is scheduled for opening on 1 July.

The IMSSA National office has moved to occupy the whole of the first floor of the building where it has occupied premises for some years now. The new offices are functionally designed to cater for the use of IMSSA's services in not just industrial dispute resolution but also in community dispute resolution and training. IMSSA shall soon have a sophisticated training facility where it will conduct its own training as well as hiring out facilities to other organisations.

This physical growth has been accompanied by an increased staff complement. One of these appointments is that of Inthiran Moodley, an IMSSA mediator who has been appointed as Regional Director. He will be responsible for developing and managing IMSSA operations in the Transvaal, the Orange Free State, and the Northern and Western Cape.

To meet the pressures of growth there has been a shift in organisational culture resulting in restructuring.

The IMSSA Board held a seminar in March to discuss IMSSA's structure and its method of operation. Flowing from decisions taken at the seminar, a number of committees have been established, including a Management Committee, Executive Committee and a Finance Committee.

The new structures have been introduced to serve as a resource to the management of IMSSA in view of the scale of IMSSA's current operations. While current decision-making capacity remains unchanged, the new structures formalise the process of consultation, to the extent that it is required, between Board representatives and management.

IMSSA finds itself operating in a period of transition that heralds major social and political realignments. In this context, IMSSA is having to examine its future development, direction and status in a new society. Among the most central of these issues is future funding. A process of strategic planning is now underway to address the challenges posed by this and other issues.

IMSSA has recently adopted an affirmative action policy. Basic principles have been formulated which relate to staff appointments and to the training and admission of panelists to IMSSA's panels. This policy is intended to guide IMSSA towards making a positive contribution to social change while fulfilling its organisational needs.

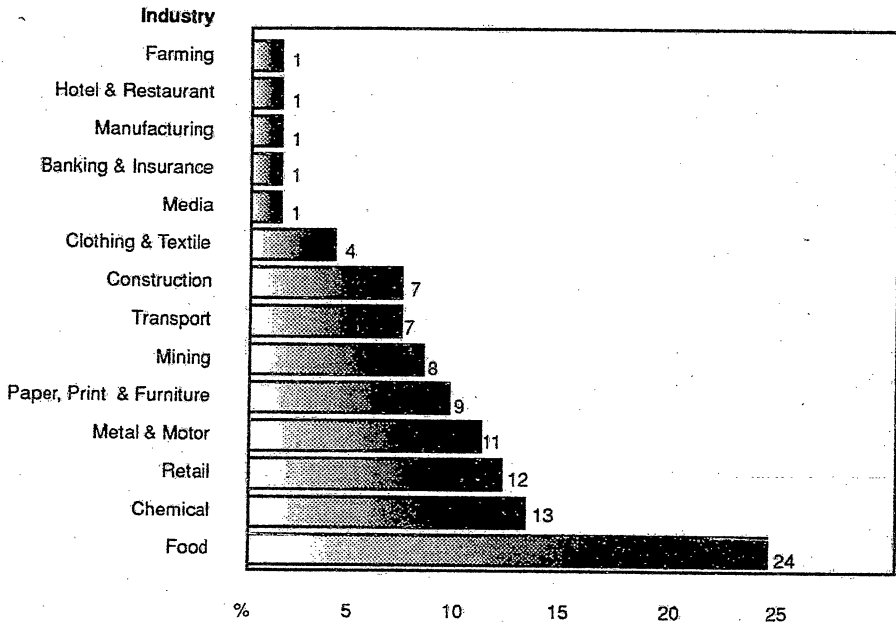
MEDIATION

In 1991 IMSSA conducted 621 mediations compared with 580 in the previous year - this marks a seven percent increase.

A regional breakdown of the use of IMSSA's mediation service in 1991 and a comparison with 1990 is recorded below:

	Tvl	Natal	W Cape	E Cape	OFS	Total
1990	358	83	53	64	20	580
1991	358	95	87	60	21	621

The following is a breakdown of Mediations in the private sector in 1991:



Comparing statistics from the first five months of this year with those of last year indicate that the demand for mediations is increasing. There has been a twenty four percent increase in mediations.

Since January this year, the following number of mediations has been organised:

1 Jan - 31 May	Tvl	Natal	W Cape	E Cape	OFS	Total
1991	109	29	22	14	6	180
1992*	118	39	15	20	10	202

* The figures for May are correct as at 26 May 1992

Disputes over wages and conditions of employment continue to be the issues most often brought to mediation. IMSSA mediators are increasingly being called upon to chair Conciliation Boards. Disputes over retrenchment procedures and packages are also being referred to mediation.

An emerging facet of third-party intervention is assisting parties to restructure their collective bargaining arrangements. IMSSA is being called upon to facilitate engagements between parties reassessing levels and forums for collective bargaining.

The impetus for restructuring emanated from the unions which argue for more centralised systems of bargaining, but the process has also enabled parties to analyse collective bargaining experiences and negotiate arrangements that are designed to promote more efficient and effective collective bargaining.

Parties are predicting a turbulent time ahead in collective bargaining in 1992 which indicates a busy time for IMSSA mediators. As a result of the economic recession, employers are expected to push for wage settlements less than the rate of inflation; while the increasing rate of unemployment means that workers have more mouths to feed. This, together with raised expectations associated with political developments point to the likelihood of tough sessions at the negotiating table.

ARBITRATION

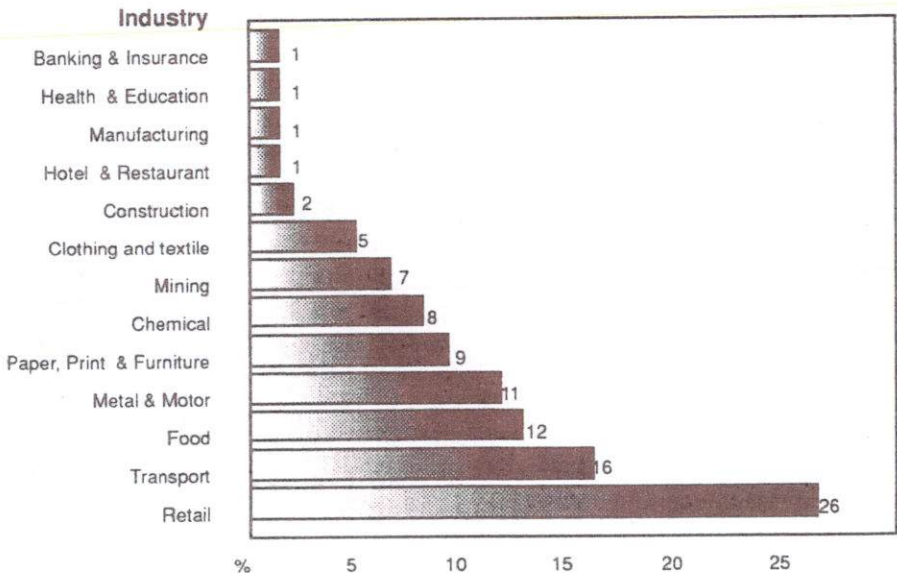
IMSSA arbitrated 430 disputes in 1991, eighty six more than 1990 - a twenty four percent increase.

Arbitration is increasingly becoming the preferred option for parties with established and settled industrial relations looking for quicker and more predictable mechanisms to handle rights disputes.

The following is a regional breakdown of arbitrations showing the comparison between 1991 and 1990:

	Tvl	Natal	W Cape	E Cape	OFS	Total
1990	227	46	42	25	4	344
1991	254	67	43	45	17	430

The following is a breakdown of Arbitrations in the private sector in 1991:



Arbitrations have increased by thirty five percent in the first 5 months of 1992 compared with the same period in 1992.

Since the beginning of 1992, the following number of arbitrations has been organised:

1 Jan - 31 May	Tvl	Natal	W Cape	E Cape	OFS	Total
1991	101	25	24	15	5	170
1992*	106	41	25	28	13	213

* The figures for May are correct as at 26 May 1992

Recent growth in the use of arbitration can be attributed to parties incorporating clauses in their procedural agreements to refer disputes over dismissals to arbitration. The most recent example of such an agreement is that between Transnet, second largest employer in South Africa, and several transport unions, in which IMSSA arbitrators are designated.

BALLOTING

A balloting panel has been established and comprises 22 balloteers who have undergone training and who have conducted ballots on behalf of IMSSA. The balloting service has conducted elections in both industrial and political settings. Negotiations on what will be IMSSA's most comprehensive balloting exercise ever, namely 46 000 mine workers in Bophuthatswana, has been postponed at the request of the parties.

IMSSA has, in the process of preparation for this ballot, developed innovative election procedures to deal with high levels of illiteracy and inumeracy.

For example, the use of photographs enables illiterate people to identify the candidate of their choice, while the provision of the correct number of stickers with crosses in them helps in dealing with inumeracy problems.

Posters and a video explain the procedures and demonstrate how to vote.

RELATIONSHIP BUILDING INITIATIVES

IMSSA has conducted two Relationship Building Initiatives in the building industry since January this year. Two more have been confirmed for June and August. Discussions are underway for several other initiatives.

COMMUNITY CONFLICT RESOLUTION SERVICE

With the signing of the National Peace Accord, IMSSA's involvement in the field has grown dramatically. IMSSA's role in the National Peace process has been to facilitate the establishment of peace committees and to provide facilitation, mediation and training services where necessary.

IMSSA mediators chair Local and Regional Dispute Resolution Committees established under the National Peace Accord. For example, Charles Nupen is the current Chairperson of the Regional Peace Committee in the Wits/Vaal Region, an area covering some seventy communities in South African industrial heartland. He also chairs the Greater Soweto Dispute Resolution Committee. Thabo Molewa and Edwin Molahlehi are acting to establish further LDRC's in Soweto. Paul Pretorius chairs the Vosloorus Peace Committee, Piroshaw Camay, the Thokoza Peace Committee. Mark Anstey is on the Executive of the Eastern Cape Regional Peace Committee and Bruce Robertson is an advisor to the Natal/KwaZulu Regional Peace Committee.

The National Peace Accord directs itself not only to violence, but to socio-economic reconstruction and development. In this regard, Paul Pretorius and Charles Nupen facilitated a Development Conference in the Border Ciskei Region, held under the auspices of the National Peace Accord, to forge a development strategy for that region. The Conference involved all the major players across the political spectrum as well as representatives from business and the church.

IMSSA Mediators have been appointed in a number of key areas in the Transvaal and Natal, where there has been considerable incidence of violence.

The challenge facing IMSSA is to develop a proactive and effective Conflict Resolution Service which will in its development protect both IMSSA's integrity and the conflict resolution process itself. Through its involvement so far, IMSSA has learned considerably about community conflict resolution. This exposure will stand IMSSA in excellent stead in developing its service.

ADR INITIATIVES

Although at this stage IMSSA confines itself to Industrial and Community Conflict Resolution, it sees enormous value in contributing to a broader ADR movement in South Africa.

As an expression of its commitment in this area, IMSSA hosted Professor Frank Sander's visit to South Africa in May. Professor Sander is the Director of the Harvard Law School Programme on Dispute Resolution, and Chairman of the Executive Committee of the Programme on negotiation at Harvard Law School. He is an expert on the relevance of ADR processes to the legal profession and legal systems. Professor Sander addressed judges, advocates, attorneys academics and students about the value of ADR. He also gave the keynote address at the launch of ADRASA, the alternative dispute resolution association of South Africa.

TRAINING

IMSSA has identified training as a major area of growth in 1992. A researcher and a Departmental Manager are shortly to be employed. Courses have been developed and select IMSSA panelists have been on generic "train-the-trainer" courses as part of a national training initiative.

IMSSA has broadened its user training programme portfolio and currently offers:

An Overview of Alternative Dispute Resolution

This one-day programme provides users with an awareness of the various options available to them for resolving conflict that exist outside the formal judicial system. Participants develop an understanding of what processes are available and how and when to use them.

An Arbitration Training Course

At the end of this four-day programme participants will understand what arbitration is; know when to use arbitration; and how to prepare and present cases at arbitration

A Negotiation/Mediation Skills Workshop

This three-day programme is to develop an awareness among users of the relationship between the way they negotiate and the outcomes of their negotiation and explores mediation as a method of pre-empting and resolving conflict. The course focuses on conflict and its consequences in negotiation; the types of negotiation strategies available; and it explores the various options for dealing with deadlock in the negotiation process. Participants also develop an understanding of the mediation process.

A Joint Negotiation Development Programme

The aim of this three-day programme is to provide unions and management (in a joint programme) with an opportunity to enhance negotiation skills and pave the way for a more productive collective bargaining experience.

IMSSA will present Negotiation Skills Training Workshops and Arbitration Skills training at five Cosatu Winter Schools in July. Training courses for both union and management are scheduled over the next few months in the areas of arbitration, negotiation/mediation and facilitation training.

IMSSA is also undertaking training in the community arena. For example, a Facilitation and Dispute Resolution Workshop will be run for the Consultative Business Movement in June to equip participants to facilitate local peace initiatives.

In April, IMSSA trained new mediators and arbitrators. Richard Bloch, an independent arbitrator, and Tom Colosi, of the American Arbitration Association were brought out to South Africa to assist in this training.

Gilbert Marcus, an advocate at the Johannesburg Bar and a member of the IMSSA Arbitration Panel conducted Refresher

Right Top: Dion Basson arbitrating
a dispute in the Retail Industry
Right middle: Zi Channing,
Manager, Client Services



Above: Charles Nupen,
IMSSA National Director

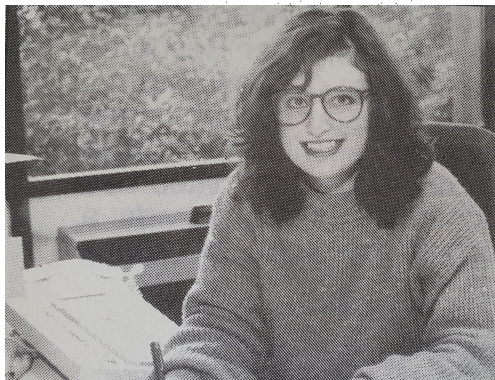
Right Bottom: Karen Miedzinski,
Research and Education Coordinator





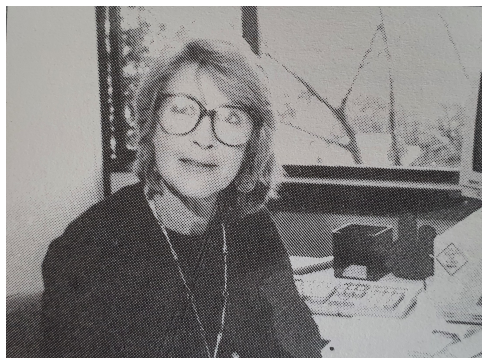
Below: Inthiran Moodley,
Regional Director

Left Top: Bontle Mpakanyane,
Mediation Client Services



Left Middle: Charmaine Sequeira,
Arbitration Client Services

Left Bottom: Gayle Sloan,
Mediation Client Services



workshops for panelists around the country on the topic, "Assessing evidence in arbitration". Tom Colosi conducted the Mediation Refresher Workshops focusing on problems and challenges in mediation.

Thabani Jali and Leah Gcabashe, IMSSA mediators from Natal underwent ACAS mediation training in Portsmouth as the guests of ACAS in April. Norman Arendse and Basher Vally will undertake similar training in July.

IMSSA will hold its annual National Conference from **20 - 22 August** in the Durban area. The Conference looks to be the biggest of its kind with at least one hundred and seventy five mediators and arbitrators expected to attend. It will be an educational event run on a workshop basis.

RESOURCE COMMITTEES

As the IMSSA Board of trustees is constituted independently of the principle parties who use the services, User Resource Committees, that will institutionalise a process of consultation, have been established. The Employers' Resource Committee was established last year; constituting representatives from a wide range of industries; the Union Resource Committee has been established this year. The committees will provide a useful sounding board on issues such as the quality of service and future development.



IMSSA STAFF

Charles Nupen	National Director
Inthiran Moodley	Regional Director
Bruce Robertson	Regional Director
Kim Kennedy	Finance & Admin Systems Manager
Dren Nupen	Coordinator: Special Projects
Karen Miedzinski	Research & Education Coordinator
Elizabeth Storey	Secretary
Zi Channing	Manager: Client Services
Bontle Mpakanyane	Mediation Client Services
Gayle Sloan	Mediation Client Services
Charmaine Sequeira	Arbitration Client Services
Nana Mogari	Arb & Med Client Services
Kholisa Xinindlu	Receptionist
Selina Nqubuka	Admin Assistant & Housekeeper
Gail Forman	Bookkeeper
Jackie Cleeve	Junior Bookkeeper
Hilda Molefe	Data Capture Clerk
Sian Jones	Client Services: Durban office
Gugu Mthembu	Secretary & Client Services

IMSSA BOARD of TRUSTEES

Adv Paul Pretorius	Chairperson
Mr John Brand	Vice Chairperson
Adv Mark Antrobus	Transvaal Panel Representative
Ms Felicity Steadman	(alternate)
Ms Sarah Christie	Western Cape Panel Representative
Mr Steve Kahanovitz	(alternate)
Mr Mark Anstey	Eastern Cape Panel Representative
Mr John Bax	(alternate)
Mr Chris Albertyn	Natal Panel Representative
Prof L Douwes Dekker	Technical Expert
Dr F van Zyl Slabbert	Technical Expert
Dr Nthato Motlana	Technical Expert
Mr David Douglas	Technical Expert
Mr Charles Nupen	National Director
Mr Bruce Robertson	Regional Director
Mr Inthiran Moodley	Regional Director

PANEL UPDATE

Arbitrators

Transvaal

Adv Mark Antrobus
 Prof Dion Basson
 Mr Paul Benjamin
 Mr John Brand
 Prof Martin Brassey
 Adv Jules Browde, SC
 Prof Edwin Cameron
 Adv Nazeer Cassim
 Prof Dennis Davis
 Mr Patrick Deale
 Ms Ingrid de Villiers
 Mr Rod Harper
 Mr Theo Heffer
 Mr Barry Jammy
 Dr David John
 Prof Adolph Landman
 Prof Pieter le Roux
 Adv Gilbert Marcus
 Adv Jan Munnik
 Adv Mahomed Navsa
 Mr Charles Nupen
 Prof Johan Piron
 Adv David Pitman
 Adv Paul Pretorius
 Adv Elna Revelas
 Ms Kathleen Satchwell
 Adv Ivor Schwartzmann, SC
 Ms Felicity Steadman
 Mr Jan Stemmett
 Adv Roland Sutherland
 Adv Karel Tip
 Mr Tim Trollip
 Mr Eric Truebody
 Mr Raymond Tucker
 Mr St Elmo Wilken

Mediators

Transvaal

Ms Sue Albertyn
 Adv Mark Antrobus
 Adv Graham Barlow
 Mr Paul Benjamin
 Mr John Brand
 Prof Martin Brassey
 Mr Azhar Cachalia
 Mr Phiroshaw Camay
 Mr Allan Colam
 Mr Brian Currin
 Mr Graham Damant
 Mr Nick de Villiers
 Mr David Douglas
 Ms Ruth Eastwood
 Ms Brigid Goldberg
 Ms Sara Gon
 Mr Peter Harris
 Prof Nicholas Haysom
 Mr Theo Heffer
 Ms Claire Hock
 Prof Peter le Roux
 Mr Vusi Masinga
 Mr Bernard Matheson
 Ms Fiona McLachlan
 Mr Dunstan Mlambo
 Ms Nomonde Mngqibisa
 Mr Vincent Mntambo
 Mr Edwin Molahlehi
 Mr Thabo Molewa
 Mr Inthiran Moodley
 Adv Kgomotso Moroka
 Mr Deon Nel
 Mr Charles Nupen
 Ms Dren Nupen
 Prof Mark Orkin



Adv Nigel Willis
Prof Johan Piron

Orange Free State

Mr Brian Ashman

Natal

Mr Chris Albertyn
Mr Chris Brunton
Mr Andrew Burnett
Mr Willie Coetzee
Mr Michael Cowling
Mr Graham Giles
Mr Thabani Jali
Mr Chris James
The Hon Mr Justice R N Leon, QC
Mr Richard Lyster
Mr Mandla Mchunu
Adv Chris Nicholson
Mr Martin Oosthuizen
Mr Les Owen
Mr Richard Pemberton
Adv Maurice Pillemer
Mr Bruce Robertson
Mr Pat Stilwell
Mr Craig Tanner
Adv Gardner van Niekerk
Mr Raymond Zondo

Ms Thandi Orleyn
Adv David Pitman
Adv Paul Pretorius
Ms Kathleen Satchwell
Ms Helen Seady
The Rev Lebamang Sebidi
Ms Annette Smart
Dr Kevin Solomons
Ms Felicity Steadman
Prof Ian Steadman
Adv Roland Sutherland
Mr Tim Trollip
Ms Nomali Tshabalala
Mr Basher Vally
Prof Attie van der Merwe
Adv Hans van der Riet
Ms Loretta van Schalkwyk
The Rev Paul Verryn
Mr J D Verster
Mr St Elmo Wilken
Adv Nigel Willis

Orange Free State

Mark Webber

Natal

Mr Chris Albertyn
Mr Chris Brunton
Ms Hillary Bennett
Ms Glynis Cocks
Mr Clive Couperthwaite
Mr Michael Cowling
Ms Lisa Dancaster
Ms Brenda de Charmoy
Mr Jeff Fobb
Ms Leah Gcabashe
Mr Philip Glaser
Mr Karthy Govender
Mr Reagan Jacobus
Mr Thabani Jali
Mr Chris James
Mr Garth Jenkins



Eastern Cape

Mr Chris Baker
Adv Fikile Bam
Mr Jon Bax
Mr Bashir Hoosain
Mr David Mias
Adv Lex Mpati
Mr C T Sangoni
Mr Cecil Somyalo
Mr Adriaan van der Walt

Western Cape

Adv Norman Arendse
Mr Lee Bozalek
Mr Roger Chennells
Ms Sarah Christie
Prof Hugh Corder
Mr Piet Faber
Mr John Hendry
Mr Barney Jordaan
Mr Steven Kahanovitz
Mr John MacRobert
Mr John Murphy
Mr Hermann Niewoudt
Mr Stefan Raubenheimer
Adv Merwe Scholtz
Prof Clive Thompson
Mr Neil van Zyl
Mr Bob von Witt

Mr Richard Lyster
Dr Rob McCann
Mr Mandla Mchunu
Mr Jerome Ngwenya
Adv Chris Nicholson
Mr Les Owen
Mr John Radford
Mr Bruce Robertson
Prof Alan Rycroft
Mr Yunis Shaik
Ms Patricia Vetter
Mr Raymond Zondo

Eastern Cape

Mr Mark Anstey
Mr Chris Baker
Adv Fikile Bam
Mr Jon Bax
Ms Martheanne Finnemore
Mr Jonathan Goldberg
Prof John Hlophe
Prof Jacques Labuschagne
Mr Reg Mason
Mr Andile Matshele
Adv Lex Mpati
Mr Mpumelelo Nyoka
Ms Judy Parfitt
Adv Ronnie Pillay
Mr Clive Plasket
Dr Roux van der Merwe
Mr Adriaan van der Walt
Mr Peter Williams

Western Cape

Adv Norman Arendse
Mr Leon Blignaut
Mr Lee Bozalek
Mr Roger Chennells
Ms Geraldine Coy



Namibia

Mr Peter Koep

Ms Sarah Christie
Mr John Hendry
Mr Barney Jordaan
Prof Kate Jowell
Mr Steven Kahanovitz
Mr William Kerfoot
Adv Joel Krige
Mr John MacRobert
Prof Johann Maree
Ms Shehnaz Meer
Mr Wallace Mgoqi
Mr Ian Newall
Mr Bulelani Ngcuka
Ms Nomonde Ngumane
Mr Hermann Niewoudt
Dr Kate O'Regan
Ms Mary Simons
Prof Blackie Swart
Prof Clive Thompson
Mr Bash Wagley

RBO PANEL

Mr Chris Albertyn
Advocate Fikile Bam
Mr Graham Damant
Mr Peter Harris
Mr Thabo Molewa
Adv Kgomotso Moroka
Mr Bulelani Ngcuka
Adv Paul Pretorius
Mr Bruce Robertson
Ms Felicity Steadman
Adv Nigel Willis

Mr Mark Anstey
Mr John Brand
Adv Nick de Villiers
Prof Peter le Roux
Mr Inthirin Moodley
Mr Wallace Mgoqi
Mr Charles Nupen
Mr John Radford
Ms Helen Seady
Mr JD Verster



BALLOTING PANEL

Transvaal

Ms Zi Channing
Ms Dren Nupen
Adv Paul Pretorius
Prof Attie van der Merwe
Mr St Elmo Wilken

Mr Charles Nupen
Mr Thabo Molewa
Ms Ilona Tip
Mr JD Verster

W Cape

Mr Roger Chennells
Mr Joel Krige
Ms Mary Simons

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Mr Ian Newall

E Cape

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Ms Judy Parfitt

Mr John Bax

Natal

Mr Michael Cowling
Mr John Radford

Mr Phil Glaser
Prof Alan Rycroft



If you have any information that you would like to share with us and our readers or would like any further information about IMSSA's services, please contact:

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