**2. Report of the Select Committee on Security and Justiceon the provisional suspension from office of Magistrate D Nair, Chief Magistrate, Pretoria, tabled in terms of section 13(3)(b) of the Magistrates Act, 1993 (No 90 of 1993), dated 13 March 2020.**

The Select Committee on Security and Justice, having considered the Minister’s report, tabled on 25February 2020 and referred to it, informing Parliament ofthe provisional suspension from office of Mr.D Nair, the Chief Magistrate at Pretoria, pending the outcome of an investigation into his fitness to hold the office as Magistrate as required by section 13(3)(b) of the Magistrates Act, (No. 90 of 1993) (the Act), reports as follows:

1. Mr. D. Nair is the Chief Magistrate, Judicial Head of Office, Pretoria and Head of the Gauteng B Cluster. Mr. Nair was appointed to the lower court bench on 1 April 1996 and was appointed a Senior Magistrate on 1 December 1999 and Chief Magistrate, heading the Gauteng Cluster at Pretoria, on 14 November 2006.
2. After conducting a preliminary investigation and having considered the preliminary investigation report, the Magistrates Commission (the Commission) resolved to charge Mr. Nair with misconduct. A charge sheet, dated 29 November 2019, containing two (2) counts of misconduct, was served on Mr. Nair and his representative.
3. The charges relate to allegations that Mr. Nair, “during the period 2016, asked for, or accepted /received a special favour or dispensation or benefit from BOSASA, to the approximate value of R200 000.00 (Two Hundred Thousand Rand) by having the security system installed at his private residence upgraded, which may unduly influence him in the execution of his official duties or create the impression that this is the case or which can reasonably be perceived as being intended to influence him in the performance of his judicial duties, or to serve as a reward for performing those duties”.
4. In a letter dated 27 November 2019,Mr.Nair was invited to show cause why the Commission should not recommend that he be provisionally suspended from office.Mr.Nair responded and furnished the Commission with hisrepresentations, dated 6 December 2019.
5. On 12 December 2019, having considered Mr. Nair’s representations, the Commission resolved to recommend that he be provisionally suspended from office in terms of section 13(3)(a) of the Magistrates Act 90 of 1993. The Commission is of the view that the allegations against Mr. Nair are of such a serious nature as to make it inappropriate for him to perform the functions of a Magistrate while the allegations are being investigated.
6. On 24 February 2020, in terms of section 13(3)(a) of Act, the Minister on the advice of the Commission decided to provisionally suspend Mr. Nair with immediate effect, pending the finalization of an inquiry into his fitness to hold office as Magistrate and, in terms of section 13(3)(b) of the Act, has submitted a Report for consideration by Parliament.

**Recommendation**

Having considered the Report, tabled on 25 February 2020,by the Minister for Justice and Correctional Services, on the provisional suspension from office of Mr. D Nair, pending the outcome of an investigation into his fitness to hold the office of Magistrate, the Committee recommends that the National Council of Provincesconfirm Mr.D Nair’s provisional suspension from the office of Magistrate.

**Report to be considered.**