**1. Report of the Select Committee on Security and Justiceon thesuspension/removal from the office of Magistrate I Meyburgh, an additional Magistrate at Johannesburg, in terms of section 13(4)(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 27 November 2019 and referred to it, informing Parliament ofthe suspension/removal from office of Ms. I Meyburgh, an additional Magistrate at Johannesburg, pending consideration by Parliament of the recommendation of the Magistrates Commission for her removal from office in terms of section 13(4)(a)(ii) of the Magistrates Act, 1993 (No 90 of 1993) (the Act), reports as follows:

1. Ms. I Meyburgh is an additional Magistrate at Johannesburg, having been appointed on 1 November 2015.
2. Since her appointment on 1 October 2015, Ms. Meyburgh has largely been absent from office due to continued ill-health. Furthermore, Ms. Meyburgh’s continuous interruption of her work schedule has made it very difficult for the Head of Office to plan her court rolls and other work upfront to ensure that service delivery and the smooth running of the court is not compromised. It has also made it difficult to evaluate Ms. Meyburgh’s performance on the bench for purposes of possible permanent appointment as she is unable to produce any work on which her fitness to hold office could be assessed. To date,Ms. Meyburgh has not returned to office and has not completed the required probationary period for aspirant Magistrates.
3. On 14 March 2018, Ms. Meyburgh attention was drawn to the provision contained in Regulation 29 of the Regulation on Judicial officers in the Lower Courts, 1994 (the Regulations), which set out the procedure to be followed where a Magistrate is removed from office due to continued ill-health
4. Ms. Meyburgh was afforded an opportunity to comment on the matter and state a case in response, with specific reference as to whether her illness was not so serious as to justify her removal from office or to suggest alternatives to removal from office. She was given until 6 April 2018 but her representative requested that she have until 13 April 2018 to submit her comments and response. The Commission, however, did not receive any reports at that stage.
5. On 18 May 2018, the Commission’s Ethics Committee considered the documentation presented to it regarding Ms. Meyburgh’s continued ill health and ordered that an investigation be held regarding her fitness to continue to hold office on account of ill-health in terms of Regulation 29(1) of the Regulations. In terms of Regulation 29(2) of the Regulations, Ms. Meyburgh was informed of the investigation in a letter dated 23 May 2018 and, in terms of Regulation 29(3) of the Regulations, was requestedto submit a medical report from a medical practitioner of her choice to the Commission.
6. Ms. Meyburgh’s representative submitted the required medical report dated 21 October 2018, which found that Ms. Meyburgh suffers from Bipolar Disorder and, at that time, was completely impaired and unable to function in any professional context. With each month of treatment her prognosis was progressively worse and it was unlikely that she would recover. The medical report found her unable to return to work.
7. On 18 April 2019, in terms of Regulation 29(6)(b) of the Regulations, the Commission afforded Ms. Meyburgh an opportunity to comment on these two issues, which letter was served on her on 2 May 2019. On 12 May 2019, Ms. Meyburgh’s representative provided the Commission with her comments but the response did not comment on the Commission’s opinion that she is not fit to hold office as Magistrate any longer due to continued ill health and thata recommendation to suspend her from office would be justified. Further the response did not show cause as to why the Commission should not determine to withhold her remuneration forthwith. Despite receiving a clarifying letter from the Commission, dated 20 June 2019, neither Ms. Meyburgh nor her representative responded.
8. On 2 August 2019, the Commission met and, having considered all the documents as required by Regulation 26(7)(a) of the Regulations, and having formed the opinion that Ms. Meyburgh does not have the capacity to carry out her duties of office in an efficient manner due to her continued ill-health, resolved to recommend that recommendthat Ms. Meyburgh be suspended from office due to continued ill-health in terms of section 3(4)(a)(ii) of the Act; and determined that her remuneration be withheld in terms of section 3(4A)(a) of the Act, with effect from the date on which the Minister suspends her from office.
9. In terms of section 13(4)(a) of the Act, the Minister must suspend a Magistrate from office if the Commission recommends that the Magistrate be removed from office, among others, on account of ill health.
10. On the recommendation of the Commission, the Minister duly suspended Ms. Meyburgh from office and, on 26 November 2019, tabled the Report for consideration by Parliament in terms of section 13(4)(b) of the Act.

**Recommendation**

Having considered the Report, tabled on 27 November 2019,by the Minister for Justice and Correctional Services, on the suspension from office of Ms. I Meyburgh, the Committee recommends that the National Council of Provincesresolve not to restore Ms. I Meyburgh to office as Magistrate.

**Report to be considered.**