

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
ATTORNEY-GENERAL'S PORTFOLIO

**Group: 2**

**Program: 1.1**

**Question No. AE15/039**

**Senator Dastyari asked the following written question from the 24 February and 27 March 2015 hearings:**

1. Has the Attorney General's department provided advice to government on the consequences of a Regulation under the FMAA being disallowed by vote in the Senate?
2. If the government is relying on passing Regulation under the FMAA to authorise its funding arrangement with the states, and these Regulations are subsequently disallowed, doesn't this mean that the funding would no longer be authorised?
3. What legal consequences would arise for the States if this occurred?
4. Would they be obliged to pay the Commonwealth back?
  - a. If so, why is the government asking states to start selling assets when it isn't even clear that the government has the power to make the incentive payments under the Asset Recycling program?

**The answers to the honourable senator's questions are as follows:**

1. Questions as to whether legal advice has been sought should be directed to the agency that may have sought the advice.
- 2-4. It would not be appropriate for the Attorney-General's Department to answer these questions as it is a request for legal advice.