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## LawTalk Blog



# In Family Law am I entitled to less because I am a stay at home mum?

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We are often contacted by people regarding entitlements to property settlement in a situation where one of the parties (usually the mother) is a stay at home parent. Often in these cases the stay at home parent is concerned that their contributions will not be valued. On the other hand, quite often the working parent feels that their contribution should be seen as greater due to the fact that they were the primary bread winner.

The assessment of a party's entitlements follows the [five step process](#) we have discussed before.

The issue of being a stay at home parent is directly relevant to several steps of that process. In particular, as follows:

- The assessment of contributions.
- The assessment of 'needs' factors.

When assessing the parties' contributions to a marriage or de facto relationship a number of contributions are looked at. Those include financial, non-financial and that of homemaker and parent. The contributions of each party are to be weighed up and assessed to arrive at a percentage figure.

Contributions as a homemaker and parent are given a significant importance under the *Family Law Act 1975*. They are not examined by looking at what the value of such services would be in the market place and reaching a figure on that basis. It is often the case that in assessing the contributions of the stay at home parent versus the contributions of the working parent that they would be considered equal. This is regardless of the income of the working parent, whether they are on \$40,000 per year or \$400,000 per year.

A marriage or de facto relationship is generally seen as a partnership between two people in which they work together and accumulate assets and if it was agreed that one party would stay at home to care for the children and the other party would work fulltime there would be no detriment to the party's entitlements if they were the one that stayed at home. It is also relevant that the fact that one parent made the homemaking and parenting contributions freed the other parent to work and earn an income.

In respect of "needs" factors, being a stay at home parent can also be of significant importance. In many cases the stay at home parent has forgone further education, training and work experience. They may have been out of the workforce for some time while the other party has continued to gain experience and increase their employment experience and earning capacity.

After a separation the stay at home parent is likely to retain the majority care of the children. The stay at home parent therefore has a lower earning capacity due to the fact that they have not continued with their education, training or employment and they have the primary care of the children of the relationship. There is therefore an adjustment of an additional percentage of the property pool made in favour of the stay at home parent at this step of the process.

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