

When drawing up a will, one of the most crucial decisions to be made is the naming of an executor

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When drawing up a will, one of the most crucial decisions you must make is the naming of an executor. If you appoint a bank or trust company as your executor, they can charge executor's fees of up to 3.99% of your estate.

On an estate worth R3m, that's about R120,000 in executor's fees.

This may account for why many people nominate a friend or family member as their executor. But the responsibilities of an executor can be demanding.

“An executor ... is required to comply with a wide framework of legal, accounting and taxation regulations. A loved one may not understand the nuances and challenges that come with this responsibility and could be seen to be biased in certain instances. As a result, the master will require a new executor appointment, resulting in unnecessary delays in winding up the estate.”

“An executor has control over all your assets after death, and while in theory the Master of the High Court has oversight as to the executor's obligations, in practice the Master is not at all effective at policing the activities of the executor.”

Sometimes the Masters Office asks a seemingly inexperienced executor to provide security as insurance for the estate assets.

“That security is quite onerous and means that if you were to be nominated as an executor, you may be required to take out an expensive insurance policy for the estate in case the assets are stolen or paid to the wrong person,”

When your nominated executor is a trust company, it does not require an insurance policy. The trust company has the capacity to put up a bond and the financial strength to meet any claims should mistakes be made.

“A company is preferable to an individual as a company provides continuity and, in many cases, employs specialists in other aspects of the estate, for example investment advice, tax experts, offshore correspondents, financial accounting expertise and so on. An executor needs to have a thorough knowledge of the laws dealing with estates, wills, marriage regimes, taxation, estate duty, fixed property, insurance and pension funds among others and also be familiar with procedures in the Masters Office.”

If the proposed executor is a member of the Fiduciary Institute of SA, this is a decided benefit as the Institute has a high standard of entry and diligent powers of investigation and discipline if a beneficiary is unhappy.

“Most estate administrations proceed smoothly, albeit in a lengthier than expected time. An efficient, skilled external executor can ensure that the benefits from the estate arrive in the hands of your heirs as quickly as possible so that life may continue for them with as little stress as possible,” he says.

Winding up even a simple estate is a complicated administrative process — and it’s often more cost effective to get a professional to do this.