



By **Letitia Watson**

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Estate planning

It's a good idea to check that your will is up to date – and make sure you get qualified experts to help you

YOU'D like to sort out your estate planning this year – but where to start? Erik Troost of African Mutual Trust in Paarl has these five valuable tips.

1 Ask an expert to draft your will or check it

Experts include attorneys, auditors and trust companies specialising in estate planning. They have the necessary skills and knowledge to test whether the instructions in your will can be executed.

For example, it's no good making bequests if your estate ends up with a cash shortfall. This could necessitate selling some of your assets – such as a house – to cover your costs and liabilities, in which event no one will inherit the house.

Your will should be amended regularly to suit your changing circumstances.

2 Choose executors and trustees with care

These are the people who'll wind up your estate after your death. You can nominate any competent person over 18 to be your executor but the person should have a thorough knowledge of winding up estates. They should be familiar with the laws that apply to estates, such as those governing capital gains tax, estate tax, administration of estates, wills and marital property.

The master of the high court might refuse to appoint someone who lacks experience in the winding up of estates, unless



they can prove they're assisted by a recognised administrator or agent. If you don't appoint a company as executor you must nominate a substitute as executor in your will.

Choosing a competent executor makes financial sense because they'll be remunerated from your estate. In terms of the Administration of Estates Act the executor may charge the following fees:

- 3,5 per cent of the gross estate assets at the time of death (excluding assets that fall outside the estate such as your pension and beneficiary policies), and
- 6 per cent of the gross income of estate assets collected by the executor after the date of death until completion of the winding up of the estate.

VAT may be charged only if the administrator is a registered undertaking. You can negotiate the executor's fee beforehand if they're involved in your estate

planning and drafting your will.

Appoint at least one independent trustee to manage and administer your trust. Trustees must for instance invest trust funds and pay beneficiaries.

An independent trustee can ensure that the other trustees execute their duties and that your beneficiaries receive what's due to them.

3 Update your policy beneficiaries

Ensure the correct people are named as beneficiaries in your policy and pension documents.

A single person might for instance name their parents as beneficiaries of a life policy but if they were then to marry and fail to change the beneficiaries their parents would be paid out in the event of their death and not their spouse, irrespective of the provisions of their will or the Intestate Succession Act. The same applies should you get divorced.

4 Keep these people in the loop

Give your executor a list of all your important documents with details of where they're kept.

It's a good idea to tell your next of kin about the provisions of your will. This facilitates the winding up process and prevents potential family strife.

An inheritance is a privilege, not a right, but it helps if your heirs know what the contents of your will are and you can consider their suggestions.

A child may for instance have a family trust and ask that their inheritance be left to the trust rather than to them personally.

5 Make provision for your children

If you die without having made a will your estate is administered under the Intestate Succession Act. The act determines who may inherit and requires that minor children's inheritance be paid into the Guardian's Fund.

Minor children can be provided for in a trust. But a trust is only as effective as the trust deed (the document setting out the provisions of the trust), and it's best to enlist the services of an expert to draft the deed.

Make arrangements with the guardians and trustees about how your minor children must be taken care of in the event of your death.

As the testator you must ensure there are enough assets and funds to provide for your minor children – this is not the guardian's duty. ■

Have the courage to live. Anyone can die

ROBERT "TREE" CODY, NATIVE AMERICAN ACTOR, DANCER AND EDUCATOR