

## Liquidation judiciaire

La liquidation judiciaire est destinée aux entreprises en état de cessation des paiements<sup>1</sup> et ne peuvent être évitées. Un liquidateur est chargé de vendre le patrimoine de la société ou de l'entrepreneur (si vous êtes en EI) afin de régler les créanciers. Cette procédure permet néanmoins de mettre fin à toute poursuite à l'encontre du dirigeant (sauf cas particuliers) et de supprimer l'insignifiance de une partie de vos dettes contractées dans le cadre de votre entreprise.

### Qui peut en bénéficier ?

Toute entreprise étant en cessation des paiements. Si ce n'est pas le cas, vous devez faire un prêt amical.

### Qui peut demander l'ouverture de la procédure ?

Dans tous les cas, il faut que vous soyez en état de cessation des paiements. La loi fait obligation au dirigeant de faire une déclaration de cessation de paiements dans un délai maximum de 45 jours de la constatation de cet état sous peine de sanctions.

- **Le dirigeant** : vous devez faire une déclaration de cessation des paiements au Tribunal de Commerce et préciser que vous optez pour la liquidation judiciaire.
- **Un créancier**
- **Le procureur de la République**

### Fonctionnement

Les effets sont différents selon que vous êtes en entreprise individuelle ou en société.

**Entreprise individuelle** : Un liquidateur est chargé de vendre tous les biens de votre entreprise.

Si l'actif professionnel ne couvre pas la totalité de vos dettes et que vous n'avez pas rendu mes ces troisièmes vos biens personnels, ils seront aliénés.

<sup>1</sup> Vous êtes en cessation des paiements lorsque votre actif disponible, (fonctionnel des immobilisations, stocks, créances, comptes en banque) ne peut transférer immédiatement en liquidité) est inférieur à votre passif exigible (dettes dettes à terme, exigibles à défaut d'échéance). Une fois en cessation de paiement, le Tribunal de Commerce peut mettre votre entreprise en redressement judiciaire ou en liquidation judiciaire.

# Manuel De La Liquidation

**Marcel A. Müller**



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