

## Railway Mandate - Discontinuance and Abandonment

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### **What is a discontinuance application?**

This is an application by a railway to stop operating on some or all of its system.

### **What is an abandonment application?**

This is an application by a railway to permanently give up or abandon some or all of a railway system, including the possibility of salvaging or removing tracks, rails and equipment. It is different from a discontinuance of service in that there is no possibility of restarting rail services.

### **Can both types of application be filed at the same time?**

Yes. Section 43 of the Nova Scotia *Railways Act* allows both types of application to be filed and heard by the Board at the same time.

### **Can the Board prevent a company from discontinuing or abandoning service?**

No. The Board's powers are limited under the *Railways Act* to determining the length of time the company must give its customers notice before it discontinues service or abandons the line.

### **Is there a limit to how long the notice period can be?**

Yes. The *Railways Act* limits the time period to a maximum of six months. Where both discontinuance and abandonment are applied for, the total notice period is still limited to six months. The notice period starts when the Board issues its decision.

### **Is the company required to provide the same service during the notice period?**

No. While the company must file a plan to provide service during the discontinuance or abandonment process, it may also reduce or alter the service. The Board's powers are limited to ensuring that the termination of service on a railway line is being dealt with in an orderly manner and pursuant to a plan which provides sufficient notice to users and sufficient service to allow them to make alternative arrangements.

### **What kinds of things can the Board consider when reviewing the discontinuance or abandonment plan?**

The things the Board considers depend on the application itself. Generally plans must be reasonable in the circumstances. Some examples of things the Board could consider include:

- The time it will take customers to find alternative transportation for their goods or materials including changes to storage facilities.

- The amount of inconvenience or harm to present customers caused by proposed changes in service during the notice period.
- Alternative arrangements for customers provided by the railway company.
- The railway company's need for a short notice period because of its precarious financial position.
- The time required to advertise and sell the railway line if it is attempting to do that.

**Does the company have to explain why it wants to stop service?**

No. The *Railways Act* does not require the company to justify its decision so the Board does not have the authority to determine whether the railway's decision was reasonable.

**Can the railway discontinue service on, or abandon, just part of the line?**

Yes. Applications can be for parts of the line and do not have to be for the whole line or service.

**What happens if the railway discontinues or abandons service before the notice period is done?**

It may be committing an offense against the *Railways Act*. The *Act* allows for penalties of up to \$200,000 per day for each day the offense continues. It also allows for imprisonment for up to one year and for both fines and imprisonment. Enforcement of the *Act* is the responsibility of the Department of Transportation and Infrastructure Renewal.