



## Accessing Surface Rights Under Zambia's Mines Act, 2015: Navigating Arbitration and Unreasonable Withholding of Consent

### Introduction

The Mines and Minerals Development Act, No. 11 of 2015 (the “**Mines Act**”) grants mining rights holders the authority to carry out mining activities, but these rights are subject to several limitations when it comes to surface access on land they do not own. A prominent challenge is the process of securing consent from landowners, particularly where such consent is unreasonably withheld.

This article explores the legal recourse for mining rights holders in Zambia when faced with unreasonable withholding of consent by

landowners, focusing on the provisions for arbitration under the Mines Act and relevant judicial interpretations.

### The Requirement for Landowner Consent

Section 52(1) of the Mines Act mandates that a mining right holder obtain written consent from the landowner to exercise mining rights on the owner’s land. This provision applies, for instance, to mining activities occurring within specified proximity to structures or land under cultivation. The purpose of this requirement is to protect landowners’ interests by ensuring that mining activities do not unduly encroach on their use and enjoyment of the land.

However, the process of obtaining this consent is not always straightforward. When consent is unreasonably withheld, section 52(3) provides

