

## LIABILITY FOR FIRE

### AT COMMON LAW

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A person will be liable for damage done by fire in three situations. That is, if the damage was caused:

1. wilfully;
2. by negligence; or
3. by the escape, without negligence, of a fire which was brought into existence by some non-natural user of the land. This principle is not exactly that of *Rylands v Fletcher*.

The principles for the third situation were stated by McKenna J in *Mason v Levy Auto Parts* [1967] 2 All ER 62 at p69G-70. The defendant will be liable if:

- (a) he brought on to his land things likely to catch fire, and kept them there in such conditions that, if they did ignite, the fire would be likely to spread to the plaintiff's land;
  - (b) he did so in the course of some non-natural use; and
  - (c) the thing ignited and the fire spread
- See the law report for *Mason v Levy Auto Parts* [1967] 2 All ER 62

### UNDER STATUTE

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Section 86 of the Fires Prevention (Metropolis) Act 1774 modifies the common law. It provides:

“And no action, suit or process whatever shall be had, maintained or prosecuted against any person in whose house, chamber, stable, barn or other building, or on whose estate any fire shall ... accidentally begin, nor shall any recompence be made by such person for any damage suffered thereby, any law, usage or custom to the contrary notwithstanding; ... ”

However, s86 has been interpreted restrictively and a fire will not be accidental if it was started negligently or due to a nuisance. Relevant cases include:

*Musgrove v Pandellis* [1919] 2 KB 43  
*Mulholland v Baker* [1939] 3 All ER 253  
*Spicer v Smee* [1946] 1 All ER 489  
*Sochaki v Sas* [1947] 1 All ER 344  
*Balfour v Barty-King* [1957] 1 All ER 156  
*Goldman v Hardgrave* [1966] 2 All ER 989  
*Mason v Levy Auto Parts* [1967] 2 All ER 62  
*H&N Emanuel v GLC* [1971] 2 All ER 835