This chapter places the authority of an agent as a central concept of the law of agency, identifying two principal types of authority, namely actual authority (both express and implied, and the various forms of implied authority, such as customary authority and incidental authority) and apparent authority. There is a third form, known as usual authority, but, as will be seen, the reasoning behind the cases that established this form of authority is highly suspect. All three forms of authority are discussed. Determining the existence and type of authority is vital as the legal consequences of an agent breaching their authority can be severe. The principal may not be bound by the agent’s actions and the agent may instead be personally liable. In addition, the agent may lose the commission/remuneration to which they were entitled, and may be found liable for breach of contract and/or breach of warranty of authority.
5. The authority of an agent